

ORIGINAL

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES ISELEY,

Plaintiff

v.

W. CONWAY BUSHEY, et al.,

Defendants

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**No. 1:00-CV-00577
(Judge Kane)**

**FILED
HARRISBURG**
JUN 15 2001
MARY E. D'ANDREA, CLERK
Per. *[Signature]*
DEPUTY CLERK

**DOCUMENTS IN SUPPORT OF DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT**

Respectfully submitted,

**D. MICHAEL FISHER
Attorney General**

**By: MARYANNE M. LEWIS
Deputy Attorney General**

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DATE: June 15, 2001**

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**WESTON v. COMMONWEALTH, et al.,
2001 WL 539 470 (3D Cir. (Pa))**

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES ISELEY,

Plaintiff

v.

W. CONWAY BUSHEY, et al.,

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**No. 1:00-CV-00577
(Judge Kane)**

**DEFENDANTS' AMENDED STATEMENT OF
MATERIAL FACTS AS TO WHICH THERE
IS NO GENUINE ISSUE IN DISPUTE**

Defendants, pursuant to Middle District Rule 7.4 and through their counsel, submit that the following facts are material to this action and genuinely not in dispute:

1. Plaintiff is Charles Iseley, an inmate currently incarcerated at the State Correctional Institution at Huntingdon, Pennsylvania ("SCI-Huntingdon").

2. Defendants are Conway Bushey, Robert Meyers, Terry Whitman, Gregory Gaertner, Sam Mazzotta, Sara Craig, Charles Mitchell, Gregory Tressler, David Wakefield, Martin Horn and Robert Bitner, Martin Dragovich, Carol Dotter, Kermit Breon, Robert Novotney, J. Kevin Kane, Kerry Dennison, Thomas Chesney, Marva Cerullo, Richard Spaide, Robert Yarnell, Sally Gennarini, James

Unell, John Corbacio, Thomas Hornung, Brenda Wildenstein, Michael Youron, John Eichenberger, Jerome Fryzel, Gerald Gavin, Lawrence MaHally, Bernie Birosaki, Steve Peek, Robert Mackreth, Brian Dropinski, Jason Grow, who at the time of the allegations contained in the complaint were employed at SCI-Rockview, SCI- Mahanoy, the Pennsylvania Department of Corrections or the Pennsylvania Board of Probation and Parole.

3. On July 2, 1997, Iseley was transferred from SCI-Greene to SCI-Rockview. While at SCI-Rockview, Iseley's prescriptive program plan recommended educational and vocational programming, drug and alcohol programming and therapeutic community unit programming. The plan also recommended that Iseley remain misconduct free and maintain contact with his counselor. (See Whitman Dec.)

4. On August 25, 1998, Iseley was placed in Administrative Custody pending an investigation of possible involvement in a fight. Information regarding the fight and identification of Iseley was provided by confidential sources of information. ("CSI") (See Mitchell Declaration)

5. On August 31, 1998, hearing examiner Mitchell conducted an in-camera hearing with Lt. Eaton to determine the reliability of the confidential

sources of information utilized in the misconduct report. This type of hearing is in accordance with DC ADM 801. (Id.)

6. The reliability hearing was conducted in-camera because the nature of the reliability of the evidence could, by itself, reveal the identity of the informants. Iseley, therefore was not present at this hearing. (Id.)

7. At the reliability hearing, Lt. Eaton explained under oath how the informants were in a position to observe, what information the sources provided and that the information was corroborated by others. In addition, information was provided to the hearing examiner that the informant had provided information in the past that was proven to be reliable. (Id.)

8. Hearing Examiner Mitchell found that the testimony of Lt. Easton and the informants met the reliability criteria as outlined in DC-ADM 801. (Id.)

9. On September 2, 1998, Iseley had a hearing regarding Misconduct No. A122000. At the hearing Iseley pled not guilty and submitted his version of the incident. (Id.)

10. After hearing the evidence, the hearing examiner believed Lt. Eaton's report and the CSI information over Iseley's denial. Iseley was sanctioned to 90 days Disciplinary Custody. (Id.)

11. Iseley was found guilty of the misconduct because the hearing examiner based his finding on the credibility evidence, testimony, and reports. (Id.)

12. On September 10, 1998, Iseley appealed Misconduct No. A 122000 to the Program Review Committee ("PRC"). The PRC reviewed the misconduct report, the reliability hearing report, Iseley's version and evidence presented, the hearing examiner's finding, the sanction, and the issues Iseley raised on appeal. Based upon their review, the PRC denied Iseley's appeal. (See Whitman Declaration)

13. Iseley appealed the PRC decision regarding Misconduct No. A 122000 to the Chief Hearing Examiner of the DOC, Robert Bitner. Bitner reviewed the misconduct report, the hearing examiner's findings and reviewed the issues raised in Iseley's appeal. Based upon his review, Bitner denied Iseley's appeal of Misconduct No. A122000, on October 6, 1998. (See Bitner Declaration)

14. On December 2, 1998, Iseley was transferred from SCI-Rockview to SCI-Mahanoy. Iseley was not assigned a job at SCI-Mahanoy in December of 1998, because he stated to the Initial Reception Committee that he did not want to work for so little pay. (Id., Chesney Declaration)

15. On December 13, 1998, Iseley filed Grievance No. MAH-0457-98 alleging that he was harassed, threatened and fired from his job by corrections officer MacKreth. (Id.)

16. Carol Dotter, the grievance coordinator at SCI- Mahanoy, reviewed the grievance and found it to be false and without merit, based upon the information provided to her. (See Dotter Dec., Grievance Record MAH-0457-98.)

17. Iseley appealed Dotter's findings to the Superintendent on December 24, 1998. On December 29, 1998, Superintendent Dragovich reviewed Iseley's original grievance, the grievance officer's findings and Iseley's appeal. Dragovich found that Iseley did not have a job at SCI-Mahanoy and was belligerent with officer McKreth. The Superintendent denied Iseley's appeal. (See Dotter Dec., Grievance Record MAH-9457-98)

18. Iseley appealed Grievance No. 0457-98 to the Chief Hearing Examiner of the DOC, Robert Bitner. Bitner concurred with the Grievance Coordinator's and the Superintendent's responses and denied Iseley's appeal on January 13, 1999. Bitner's findings were based upon his review of the grievance record. (See Bitner Dec.)

19. On December 14, 1998, Iseley went to Unit Manager's Chesney office and asked permission to go to the commissary, after the block's scheduled

commissary. When Chesney refused the request, Iseley became argumentative with Chesney. Chesney then ordered Iseley to leave his office. (See Chesney Dec.)

20. Iseley refused to leave and began using obscene language. Iseley was then issued Misconduct No. A 110205 for refusing to obey and order and using obscene language. (See Chesney Dec.)

21. On December 16, 1998, a hearing was held by hearing examiner Kermit Breon regarding Misconduct No. 110205. Prior to the hearing, Iseley's witnesses were not permitted to be called as Iseley admitted that the staff witnesses he requested were not present at the time and place that the incident took place. (See Misconduct Record 110205)

22. At the hearing Breon considered Chesney's report as well as Iseley's version. Based upon the information presented, Breon believed Chesney's report that Iseley refused to obey an order and sanctioned Iseley to 30 days disciplinary custody. (Id.)

23. Iseley then appealed the misconduct decision to the PRC. Upon review of the misconduct report record, Iseley's version, and the hearing examiner's findings, the PRC denied Iseley's appeal. (See Spaide Dec., Misconduct Record 110205)

24. Iseley appealed Misconduct Report No. 110205 to the Chief Hearing Examiner of the DOC, Robert Bitner. Bitner, based upon his review of the misconduct, the hearing examiner's finding, Iseley's documentation and the PRC and superintendent review, denied the appeal. (See Bitner Declaration)

25. On December 17, 1998, Iseley submitted inmate grievance No. MAH-0462-98, alleging that his cell lights remain on at night in violation of his constitutional rights. (See Grievance Record MAH 0462-98; Dotter Dec.)

26. Carol Dotter, the Grievance Coordinator, responded to Iseley on December 17, 1998, explaining to him that the low intensity night lights are necessary for security in the L-5 unit. (Id.)

27. Iseley appealed Dotter's response to Superintendent Dragovich and to the Chief Hearing Examiner, Robert Bitner. Both Bitner and Dragovich denied Iseley's appeal. (See Grievance Record MAH 0482-98; Bitner Dec.)

28. On December 26, 1998, Iseley filed Grievance No. MAH 0479-98, alleging he is not permitted to receive the alternative protein menu when pork is served. On January 4, 1999, the Food Service Manager, Robert Yarnell advised Iseley that he would be allowed to receive the pork alternative if he signed up for the program. Prior to January 4, 1999, Iseley had not signed up for the protein

alternative menu at SCI-Mahanoy. (See Grievance Record MAH-0479-98, Dotter Dec.; Yarnell Dec.)

29. Iseley appealed Yarnell's response to the Superintendent Dragovich and to the Chief Hearing Examiner, Robert Bitner. After a review of the grievance record, both Bitner and Dragovich denied Iseley's appeal. (Id.).

30. In January, 1999, Iseley was placed on grievance restriction, pursuant to DOC-ADM 804, by Superintendent Dragovich. Dragovich believed that Iseley was not making a good faith use of the grievance system, and that Iseley was not making a legitimate effort to resolve problems before using the grievance system as outlined in ADM 804 §B. (See Memorandum dated 1/3/99)

31. On December 17, 1998, Iseley was presented with a mental health informed consent document which Iseley reviewed and signed. On December 24, 1998, Iseley wrote the chief psychologist Youron and requested that his consent be revoked and that the original document be returned to him. (See Grievance Record No. 0002-99; Youron Dec.)

32. On December 24, 1998, Youron wrote to Iseley and informed him that his consent was revoked. The original document was returned to Iseley and a note was made on his DC-14 that Iseley revoked his consent and that the document was returned to him. (Id.)

33. On January 3, 1999, Iseley filed Grievance No. 0002-99 alleging that Dennsion misrepresented himself to Iseley as a member of the Board of Probation and Parole and that James Unell, the inmate program manager, did not explain matters to him satisfactorily. (See Grievance No. 0002-99; Dotter Dec.)

34. On January 14, 1999, Unell responded to Iseley informing him that his consent was withdrawn per his request on December 14, 1998, and that the original document was returned to him, and that all the elements of his grievance had been fully addressed. (See Unell Dec.)

35. On January 26, 1999, Iseley appealed Unell's response to Superintendent Dragovich, who after review of the grievance and Unells' response, informed Iseley that Dennsion and Unell followed proper procedures. Dragovich denied Iseley's appeal. (See Grievance Record No. 000299)

36. Iseley further appealed Grievance No. MAH-0002-99 to the Chief Hearing Examiner Robert Bitner. Bitner, who after a review of the grievance, the response, and the Superintendent's findings, denied the appeal. (See Bitner Dec.)

37. On March 4, 1999, Iseley submitted an inmate's request to staff member, directed to superintendent Dragovich. Iseley alleged that Islamic materials were confiscated and that Lt. Gavin made threats of physical injury and racial slurs toward him. (See Inmate Request To Staff Member dated 3/4/99)\

38. Dragovich responded to Iseley on March 5, 1999 and informed him that the two letters in question were confiscated because they had no return address on them and contained material which violated DOC policy governing incoming publications. (Id.)

39. On January 27, 1999, Iseley filed grievance No. MAH-0035-99, alleging that upon his release from the Restricted Housing Unit, he discovered items of his personal property missing, including twelve publications/magazines. (See Grievance Record No. MAH 0035-99; Dotter Dec.)

40. On January 28, 1999, Lt. Mahally responded to Iseley's grievance informing him that his personal property inventory sheet that accompanied him to SCI-Mahanoy reflected that he had seven magazines/publications. Mahally further explained to Iseley that following his confinement to the RHU his property was packed and secured in the property room. (See Grievance Record No. MAH 0035-99.; Dotter Dec.)

41. Iseley appealed the response to Grievance No. MAH-0035-99 to Dragovich and Bitner, who denied Iseley's appeal. (See Grievance Report No. MAH 0035-99; Bitner Dec.)

42. In March of 1999, Iseley filed grievance No. MAH-0076-99 alleging that the medical department wrongfully charged him for sick call regarding a

chronic condition, that he was being charged for glasses that he did not want and that the medical department refused to refer him for corneal implants. (See Grievance Report No. MAH-0076-98; Dotter Dec.)

43. In his response to Iseley's grievance, Superintendent Dragovich informed Iseley that he did not order photo gray lenses or sign a cash slip for the photo grey lenses and that treatment of his visual imperfection would not be corrected through corneal transplants or photo refractive keratotomy because this procedure is cosmetic and be corrected through lenses. Dragovich denied Iseley's appeal of the grievance. Bitner, based upon the information and documentation provided, also upheld the responses provided to Iseley at the institutional level. (See Grievance Report No. MAH 0076-99; Bitner Dec.)

44. On March 15, 1999, Iseley's guitar bag was confiscated for security reasons because the case had excessive soft padding which could be used to conceal contraband. Iseley then filed Grievance No. MAH-0014-99 concerning the confiscation of the bag. It was explained to Iseley that the bag was confiscated for security reasons. (See Grievance Record No. MAH 0014-99)

45. In February of 1999, Iseley ordered a radio which he then wished to exchange and then receive a refund. Iseley refused to send out the cassette player to the vender for the refund; rather, he elected to file a grievance. Iseley filed

grievance No. MAH-0014-99 concerning the return of the radio. (See Grievance Record No. MAH-0014-99; Dotter Dec.)


46. On August 27, 1999, a safety and security check was conducted on Iseley's cell. Officer Dropinski ordered Iseley to remove an air freshener from his light fixture. After given the order, Iseley aggressively approached Dropinski and threatened to harm him. Iseley was then issued Misconduct No. A27518, Threatening An Employee with Bodily Harm. (See Misconduct Report No. A27518; Dropinski Dec.)

47. On August 30, 1999, a hearing was held regarding Misconduct No. A27518. After reviewing the misconduct report and Iseley's version, the hearing examiner found the officer's report credible and sanctioned Iseley to 60 days disciplinary custody. (See Kane's Dec.)

48. In September, 1999 Chief Hearing Examiner Bitner reviewed Iseley's final appeal of Misconduct No. A27518. Based upon his review of the misconduct report and the hearing examiner's report, he denied Iseley's appeal. Bitner believed that there was sufficient evidence to sustain a finding of guilt. (See Bitner Dec.)

Respectfully submitted,

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DATE: June 15, 2001

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES ISELEY,

Plaintiff $\dot{\mathbf{V}}.$

No. 1:00-CV-00577
(Judge Kane)

W. CONWAY BUSHEY, et al.,

Defendants

DECLARATION OF ROBERT BITNER

I, **ROBERT BITNER**, declare under the penalty of perjury in accordance with 28 U.S.C. §1746, that the following facts are true and correct and based upon my personal knowledge:

1. I am currently employed as the Chief Hearing Examiner for the Pennsylvania Department of Corrections. I have held this position since June, 1986.

2. Prior to Chief Hearing Examiner, I was a hearing examiner at the State Correctional Institution at Camp Hill (SCI-Camp Hill) from 1983 to 1986; and from 1974 to 1983 I was a corrections counselor. I have been employed by the DOC for approximately 26 years..

3. Pursuant to Department of Corrections Administrative Directive, 801 ("DC-ADM 801"), all state prisoners under the jurisdiction of the Department of Corrections are afforded an administrative review of a misconduct.

4. If an inmate is found guilty of a misconduct charge, he may appeal to the institutions Program Review Committee ("PRC") for initial review within fifteen days of the misconduct hearing.

5. The inmate may proceed to the second level of appeal, and appeal the decision of the PRC to the Superintendent of the institution. An inmate may appeal the decision of the superintendent to a final appeal level. The final level is the Chief Hearing Examiner.

6. As Chief Hearing Examiner, I review all final appeals of inmate Misconducts Reports, my duties and responsibilities include, but are not limited to reviewing the entire record and documentation concerning each misconduct.

7. Prior to January 1, 2001, I also reviewed final appeals of all inmate grievances. Pursuant to Department of Corrections Administrative Directive, 804 "DC-ADM 804"), all state prisoners under the jurisdiction of the Department of Corrections are afforded an administrative review of misconduct.¹

8. In October 1998, I reviewed Charles Iseley, AM-9320 appeal of Misconduct No. A122000, Criminal Conspiracy to Commit Aggravated Assault. In accordance with DC-ADM 801, VI, I, 3, I reviewed the entire record of the misconduct. My review

¹ On January 1, 2001, DOC-ADM 804 was revised, whereby final appeal to inmate grievances or institution action or policy are now reviewed by the DOC Secretary's Office of Inmate Grievances and Appeals.

included a review of the misconduct report, the hearing report and related documents, his appeal of the Program Review Committee ("PRC") and the PRC response. In addition, I reviewed Iseley's appeal of the Superintendent's decision, the Superintendent's response and the issues Iseley raised to final review.

9. On review of the record, I concurred with the hearing examiner, the PRC and the superintendent's findings. I found that the hearing examiner did not error in his finding of facts based upon the evidence presented and that procedures were followed pursuant to DC-ADM 801 §VI. For those reasons, I denied Iseley's appeal of Misconduct No. A122000. (See Exhibit "A" attached)

10. In January 1999, I reviewed Iseley's appeal of Grievance No. MAH-0457-98 relating to Iseley's allegation that he was fired from his job. I reviewed the entire record of the grievance, including Iseley's initial grievance, the response, his appeal to the Superintendent, and the Superintendent's response. I also carefully reviewed the issues Iseley raised for final review. Upon completion of the review, I denied Iseley's appeal. My decision to deny Iseley's appeal of Grievance No. 04578 was based upon my review of the relevant documentation. (See Exhibit "B")

11. In January 1999, I reviewed Iseley's final appeal of Misconduct No. A110205, Refusing to Obey an Order, Using Abusive Obscene Language to an Employee. I reviewed the entire record of the misconduct, including the misconduct report, the

hearing examiner's report and the related documents. I also reviewed his appeal to the PRC and their response and Iseley's appeal to the superintendent and his response. I also reviewed the issues Iseley raised on appeal. (See Exhibit "C" attached)

12. Upon completion of my review, I denied Iseley's appeal. I found that the hearing examiner documented finding of fact based upon the evidence presented at the hearing to support the decision. I further found the sanction with the range of misconduct sanctions. I reviewed the responses provided by the PRC and the superintendent and denied Iseley's appeal of the Misconduct No. A110205. My decision to deny Iseley appeal of Misconduct No. A110205 was based upon my review of the relevant documentation. (Id.)

13. In January, 1999, I received Iseley's final appeal of Grievance No. MAH-0462-98, relating to cell lights that remain on at night for security reasons. I reviewed the entire record of the grievance including Iseley's initial grievance, the response, his appeal to the Superintendent, and the Superintendent's response. I also carefully reviewed the issues Iseley raised for final review. (See Exhibit "D" attached)

14. Upon my completion of the review, I upheld the responses provided by the staff at SCI-Mahanoy regarding the necessary security measures and the need for low intensity lighting in the cells. My decision to deny Iseley's appeal of Grievance No. 04578 was based upon my review of the relevant documentation. (Id.)

15. In February 1999, I reviewed Iseley's appeal of Grievance No. MAH-0002-99, relating to his allegation of misrepresentations regarding consent forms. I reviewed the entire record of the grievance including Iseley's initial grievance, the response, his appeal to the Superintendent, and the Superintendent's response. I also carefully reviewed the issues Iseley raised for final review. My decision to deny Iseley's appeal of Grievance No. MAH-0002-99 was based upon my review of the relevant documentation. (See Exhibit "E" attached)

16. In March, 1999, I reviewed Iseley's appeal of Grievance No. MAH-0035-99, regarding allegations that Iseley's property was missing. I reviewed the entire record of the grievance including Iseley's initial grievance, the response, his appeal to the Superintendent, and the Superintendent's response. My decision to deny Iseley's appeal of Grievance No. 0035-99 was based upon my review of the relevant documentation and information. (See Exhibit "F")

17. In April, 1999, I reviewed Iseley's appeal of Grievance No. MAH-0076-99, regarding Iseley's allegations concerning various medical issues. I reviewed the entire record of the grievance including Iseley's initial grievance, the response, his appeal to the Superintendent, and the Superintendent's response. My decision to deny Iseley's appeal of Grievance No. 0076-99 was based upon my review of the relevant documentation. (See Exhibit "G" attached)

18. In September, 1999, I reviewed Iseley's appeal of Misconduct No. A27518, Threatening An Employee or Their Family With Bodily Harm. (See Exhibit "H" attached)

19. I reviewed the entire record of the Misconduct, including the Misconduct Report, related documents and Iseley's appeal. Upon completion of the review I found that the evidence presented at the hearing supported the hearing examiner's finding of guilt, and denied Iseley's appeal. (Id.)

20. The decisions I made regarding Iseley's appeals of his misconduct and grievances were based upon my review of the documentation and information found in the record, pursuant to DOC-ADM 801..

June 7, 2001
DATE

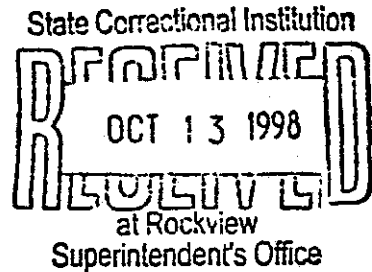
Robert S. Bitner
ROBERT BITNER
Chief Hearing Examiner

EXHIBIT "A"

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
1451 N. MARKET STREET
ELIZABETHTOWN, PA 17022

OFFICE OF THE
CHIEF HEARING EXAMINER

October 6, 1998



Charles Isley, AM-9320
SCI Rockview

Re: Misconduct No. A122000

Dear Mr. Isley:

This is in response to your appeal to final review of the above numbered misconduct.

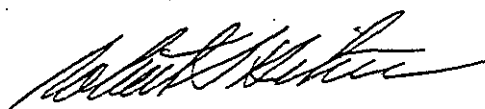
In accordance with DC-ADM 801, VI, I., 3 as amended effective November 1, 1997, I have reviewed the entire record of this misconduct; including the misconduct report, the hearing report and related documents, your appeal to the Program Review Committee and their response, your appeal to the Superintendent and his response. I have also thoroughly reviewed the issues you raise to final review.

The issues you raise to final review have already been addressed by the Program Review Committee and the Superintendent. On review of the record, this Office concurs with their responses. I find no persuasive basis from which to conclude that the Examiner erred in conducting the hearing. The Examiner specifically documented findings of fact based on evidence presented at the hearing to support the decision. The procedures followed were in complete accordance with DC ADM 801, §VI. The sanction imposed is within the presumptive range of misconduct sanctions, is not viewed to be disproportionate to the offense, and therefore will not be amended at this level.

Your claim that the hearing examiner "lied" and said you were present for the in camera reliability hearing is not supported by the record. Your hearing was concluded well within the stipulated six (6) day limit.

For the above-stated reasons, the responses provided by the Program Review Committee and the Superintendent are upheld in full. Your appeal must, therefore, be denied.

Sincerely,



Robert S. Bitner
Chief Hearing Examiner

① C- Wakefield
Whitman
Galt
Hart
H. Ex.
Mazzotta
Case Record

RSB:ph
pc: Superintendent Meyers

SCIR-141 III

COMMONWEALTH OF PENNSYLVANIA

☒ MISCONDUCT APPEAL ☐ PERIODIC REVIEW ☐ OTHER

DEPARTMENT OF CORRECTIONS

DC NUMBER	NAME	INSTITUTION	DATE OF REVIEW	NO. FROM PART I
AM9320	Charles Isley	ROC	09-10-1998	A122000

PROGRAM REVIEW COMMITTEE'S DECISION AND ITS RATIONALE

Mr. Isley was found guilty on 09-03-1998 of a Class I-B #12, Violation of PA Crimes Code not in Category I, 903 Criminal Conspiracy to commit aggravated assault. He received a sanction of ninety (90) days disciplinary custody. He is now appealing the Hearing Examiner's decision based upon his belief that the procedures employed were contrary to law or Administrative Directive 801, the punishment is disproportionate to the offense, and the evidence was insufficient to support the decision.


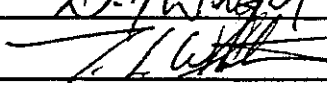
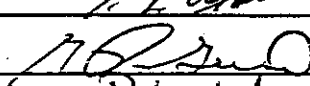
In his appeal, Mr. Isley states that he was not present at the Reliability Hearing and did not know it occurred until later when he received his copy. He also states that he was sentenced on September 2 even though his testimony did not occur until September 3. He also states the Hearing Examiner did not take into consideration his issues and, in fact, does not believe there is sufficient documentation to support the charge or the decision. He also notes the punishment is beyond the guidelines and that there is a conspiracy to set him up. He states the confidential informants were not credible. Finally, he states that the Hearing Examiner was racially prejudiced.

In reviewing Mr. Isley's appeal as well as various documentation associated with the proceedings, PRC notes that the Hearing Examiner conducted the Reliability Hearing and provided a sanction, which was beyond the guidelines but met Administrative Directive 801 policy. The Hearing Examiner can provide a sanction beyond the presumptive range provided he give a rationale, which in this case was based on the extent of injury to the victim which was verified through a medical report. The final basis for the decision was the credibility of the investigation of Lt. Eaton, including the reliability of the CSIs over Mr. Isley and his witnesses. Such a determination is within the purview of the Hearing Examiner and sufficient basis for a decision of guilt. PRC notes that the Hearing Examiner did conduct a hearing on 09-02-1998 with Mr. Isley in which he took testimony from Mr. Isley. At that time, there was no Witness Form available nor was there any indications noted from Mr. Isley that witnesses were involved. The Hearing Examiner did continue processing his Findings of Fact and did arrive at a verdict. However, before giving the actual verdict, a Witness Form which was properly executed came to the Hearing Examiner's attention. At that time, he decided to continue the hearing to take additional testimony from Mr. Isley and his two witnesses. Mr. Isley did request the CSIs, however, they were not allowed. In taking additional testimony on 09-03-1998, the Hearing Examiner expanded his Findings of Fact. However, he did come to the same conclusion that Mr. Isley did participate as a conspirator in the aggravated assault on Michael Smith. Again, the evidence used to support the Hearing Examiner's decision was within the guidelines of Administrative Directive 801.

Mr. Isley also noted possible racial prejudice in an alleged statement made by Mr. Mitchell at the hearing. While PRC does not condone any such statements and is recommending further investigation of this by Security staff, there is extensive documentation that the Hearing Examiner afforded Mr. Isley the opportunity to defend himself within the 801 guidelines. Furthermore, the Hearing Examiner also was intent on carrying out such guidelines in the conduct of the initial hearing and the continuation to hear additional testimony. Mr. Isley was not found guilty on 09-02-1998. He was found guilty on 09-03-1998. He was provided all the information as per the 801 guidelines. PRC sustains the Hearing Examiner's decision in full.

DECISION RELATIVE TO HEARING COMMITTEE'S VERDICT

☐ NOT APPLICABLE ☒ SUSTAIN ☐ SUSTAIN-AMEND ☐ REFER BACK FOR FURTHER STUDY ☐ EXONERATE INMATE

NAMES OF PROGRAM REVIEW COMMITTEE MEMBERS	SIGNATURES	DATE
D. J. Wakefield		9-10-98
T. L. Whitman		9/10/98
G. P. Gaertner		9/10/98

ORIGINAL - DC-15


COPY 2 - Inmate Cited

COPY 3 - Staff Member Reporting Misconduct

COPY 4 - Deputy Superintendent

COMMONWEALTH OF PENNSYLVANIA
Department of Corrections
State Correctional Institution at Rockview
(814-355-4874)
September 15, 1998

SUBJECT: Appeal of PRC Decision

TO: Charles Isley, AM9320
Bldg G

FROM: R. W. Meyers
Superintendent

I have reviewed your misconduct number A122000, your version, the Hearing Examiner's report and sanction, and also the Program Review Committee's decision and rationale.

An investigation was also conducted by Captain Tressler and his findings are that the facts indicate that your allegations are completely unfounded.

After reviewing all information I find all procedures to be in compliance with Administrative Directive 801 and concur with the Program Review Committee's decision.

RWM:tad

cc: Deputy Whitman
Deputy Wakefield
Dr. Gaertner
Mr. Harter
Hearing Examiner
Mr. Mazzotta
Case Record

COMMONWEALTH OF PENNSYLVANIA
SCI-ROCKVIEW

DATE: 9-4-98

SUBJECT: REQUEST FOR REVIEW OF HEARING EXAMINER ACTION

TO: Charles Isley, AM9320

FROM: *TLW/LL*
Terry L. Whitman
Acting Deputy Superintendent for Facilities Management

Your request for a review of the decision of the Hearing Examiner has been received. A meeting has been scheduled with the Program Review Committee on or after 1:00 p.m. Thursday, September 10. Your presence is/is not required.

If your presence is required, you will be informed by your block officer as to the exact time to report to the Treatment Building for your appeal, or if applicable, the Program Review Committee will see you in your cell during their regular weekly visit to the RHU.

c: file
TLW:dch

DC-141 PART II E
MISCONDUCT HEARING APPEALCOMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

DC Number AM9320	Name C. Isley	Institution Rockview	No. from PAR A122000
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I was found guilty of misconduct # A122000 on 980902 (date) by the Hearing Committee/Examiner, and I wish to appeal that decision on the following grounds:

Check Area(s) Involved

- a. The procedures employed were contrary to law, Administrative Directive 801, or to the ICU Consent Decree;
- b. The punishment is disproportionate to the offense;
- c. The evidence was insufficient to support the decision.



Below is a brief statement of the facts relevant to my claim(s). It includes the identity of all persons who may have information which may be helpful in resolving this matter.

1. I was never present at the reliability hearing and did not even know it occurred until I received a copy of the decision days later.
2. The hearing examiner found me guilty and sentenced me on 980902 even though the hearing and witnesses' testimony and my testimony did not occur until 980902.
3. The hearing examiner did not investigate or take into consideration any of the issues raised in my version of the facts.
4. There was no evidence to support the false charge because even if it were true the conspiracy could have been for extortion, robbery, theft, harassment, intimidation, etc.
5. Nowhere in the report does it state that I conspired to do something and if so how and what was involved.
6. The punishment is beyond the guidelines.
7. There was an active conspiracy to set me up for something I did not do.
8. The CSIs are not credible.
9. The hearing examiner found that I participated in the assault even though there is no evidence whatsoever to that effect.
10. When I informed the hearing examiner that I will see the board in January and that there was no evidence he told me that he did not care because he can just look at a nigger and tell he is guilty and that people like me should be killed.

RM
Page 1 of 2

A 122000

FORM DC-141		PART I		COMMONWEALTH OF PENNSYLVANIA	
<input checked="" type="checkbox"/> MISCONDUCT REPORT		<input type="checkbox"/> OTHER		DEPARTMENT OF CORRECTIONS	
DC Number AM9320	Name Charles Isley	Institution SCIR	Incident Time 24 Hr. Base 1230 hrs	Incident Date 8-24-98	Date of Report 8-31-98
Quarters DA/AC	Place of Incident Building A Cell 1-30				
OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)					
DC Number	Name	I	W	DC Number	Name
CF5358	Michael Smith	X			
DA9752	Lewis Gay	X			
MISCONDUCT CHARGE OR OTHER ACTION <i>Class I Category B 12- Violation of Pa. Crimes Code not in Category 1 - 903 Criminal Conspiracy To Commit Aggravated Assault</i>					
STAFF MEMBER'S VERSION <i>In 8-24-98 CF5358 Michael Smith was a victim of an aggravated assault which took place in his assigned cell Building A cell 1-30. Two confidential source informants #105 and #106 have been identified as being in a position to observe the violation and gain knowledge of said violation. Both confidential source informants have corroborated each others account of the incident detailing how and when the aggravated assault occurred. On 8-24-98 at approx 1230 hrs. DA9752 Lewis Gay and AM9320 Charles Isley went to CF5358 Michael Smith's cell A - 1-30. Smith was sitting on his chair in the cell. Gay entered the cell while Isley remained in the cell's doorway blocking any attempt by Smith to depart.</i>					
IMMEDIATE ACTION TAKEN AND REASON <i>see pg 2</i>					
PRE-HEARING CONFINEMENT					
IF YES					
<input checked="" type="checkbox"/> YES	TIME	DATE			
<input type="checkbox"/> NO	<i>already confined</i>				
REPORTING STAFF MEMBER SIGNATURE AND TITLE <i>J. P. [Signature]</i>			ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY <i>J. [Signature]</i>		DATE AND TIME INMATE GIVEN CO DATE 8-31-98 TIME 24 HOUR 1030
YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER DATE 9-1-98 TIME 1035			Misconduct Category <input checked="" type="checkbox"/> CLASS I <input type="checkbox"/> CLASS 2		Signature of Person Serving Notice <i>Clarence R Lee</i>
NOTICE TO INMATE You are scheduled for a hearing on this allegation on the date and the time indicated or as soon thereafter as possible. You may remain silent, if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class I misconduct, any pre-release status you have will be revoked.					

part 2 of
122000

FORM DC-141		PART I		COMMONWEALTH OF PENNSYLVANIA			
<input checked="" type="checkbox"/> MISCONDUCT REPORT		<input type="checkbox"/> OTHER		DEPARTMENT OF CORRECTIONS			
DC Number AM9320	Name Charles Isley	Institution SCIR	Incident Time 24 Hr. Base 1230hrs	Incident Date 8-24-98	Date of Report 8-31-98		
Quarters DA/AC	Place of Incident Building A Cell 1-30						
OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)							
DC Number	Name	I	W	DC Number	Name	I	W
MISCONDUCT CHARGE OR OTHER ACTION							
SEE PAGE 1							
STAFF MEMBER'S VERSION							
<p>The cell. Gay had dark brown work gloves on and also a knit cap with holes cut out to serve as a mask. Gay began to strike Smith in the face/head area an exuberant numerous times. The assault was in such excess that Smith was unable to defend himself. Shortly after the assault began, an officer started down this particular range. At this time, Isley alerted Gay and both departed the cell. At this time, Gay removed the mask which allowed for positive identification. Smith's injuries were discovered later on same date by corrections officers. Smith had numerous facial injuries documented by the med. dept. Medical incident/injury report and photographs available in the Security Office. Report delayed due to investigation.</p>							
IMMEDIATE ACTION TAKEN AND REASON							
Inmate already confined in DA/AC - to remain confined as a threat to staff until misconduct hearing							
PRE-HEARING CONFINEMENT							
IF YES							
<input checked="" type="checkbox"/> YES	TIME	DATE					
<input type="checkbox"/> NO	already	confined					
REPORTING STAFF MEMBER SIGNATURE AND TITLE				ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY		DATE AND TIME INMATE GIVEN CC	
J. E. Smith (M)				D. Leather (M)		8-31-98 1030	
YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER DATE				Misconduct Category		Signature of Person Serving Notice	
9-1-98				1035		CLASS 1	
						CLASS 2	
						Charles R Lee	

NOTICE TO INMATE

You are scheduled for a hearing on this allegation on the date and the time indicated or as soon thereafter as possible. You may remain silent, if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class I misconduct, any pre-release status you have will be revoked.

DC-141 Rev. 6-84 DISCIPLINARY HEARING REPORT		PART II B		COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS			
DC Number AM9320	Name Charles Isley	Institution SCIR	Hearing Date 9/02/98	Hearing Time 0815	No. from P A1220		
INMATE PLEA		<input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Not Guilty		<input type="checkbox"/> No Plea <input type="checkbox"/> Other		Verdict <input checked="" type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty	
HEARING ACTION							
CHARGES Class I-B, #12 Violation of PA Crimes Code not in Category I, 903 Criminal Conspiracy to commit aggravated assault							
FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED							
PLEADS NOT GUILTY #12 SUBMITTS ANSWER I HAS NO KNOWLEDGE OF THIS INCIDENT. NEVER AT SMITH'S CELL DOES KNOW GAY FROM BROTH JAIL NEVER PARTICIPATED IN AN ASSAULT ON SMITH.							
<p>H.Ex. believes C03 Eaton's credible report and the CSI information over the denail of inmate Isley that more likely than not inmate isley did conspire with and then assist inmate Gay with an assault on CF5358 Smith by standing in the doorway to Smith's cell and not allowing inmate Smith to exit the cell as the assault was in progress. Inmate Isley would not be expected to stand in the doorway and assist inmate Gay as the CSI's state if h were simply passing the cell as inmate do not want to become involved and likely pass the c going to their own cells so as not to get involved. They would not jump in and assist in an assault unless they had and where involved with the assault and had previously planned to d so. The CSI identification of inmate Gay as the Assaulter and Inmate Isley as the inmate whom stood in the doorway blocking Smith's exit clearly establishes a preponderance of evid that the two had planned previously to assault Smith and what both's role would be upon arrival to the cell. H.Ex. notes this to be a very severe assault on inmate Smith and the charge of Aggravated Assault warranted. Hex further finds a preponderance of evidence to be that Isley Conspired with and then participated in the Assault on Smith along with inmate Gay. H.Ex. sanctions above range as inmate Isley did conspire and then DID Participate in t assault which was very severe in nature. Isley is not believed that he has no knowledge of assault based on the CSI identification of Isley and his actions during the assault. These CSI's would have no reason to lie about Isley's participation and H.Ex. notes this incident occurred when Chow lines where returning to the block. Many inmates would be in the area an have reason to see the assault as it ocured and none would hvae called out there is an ass in progress due to not wanting to be called a "Snitch" in fear of their own safety.</p>							
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO The inmate has heard the decision and has been told the reason for it and what will happen. <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO The circumstances of the charge have been read and fully explained to the inmate. <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO The opportunity to have the inmate's version reported as part of the record was given. <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.						Guilty # 12 90 Days D.C. effective SEE APPENDICES <input checked="" type="checkbox"/> PHOTO PAGE. MRO REPORT CF5358 RELIABILITY HIGH	
NAME(S) OF HEARING EXAMINER/COMMITTEE (TYPED OR PRINTED) C. Mitchell				Hearing Report and all appended information must be signed. Signature indicates finished report with appendices. C. Me. SIGNATURE OF HEARING EXAMINER/COORDINATOR			

DC-141 Rev. 8-84 DISCIPLINARY HEARING REPORT		PART II B COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS			
DC Number	Name	Institution	Hearing Date	Hearing Time	No. from P
Am9320	ISKEY, Charles	SCSR	9-03-98	0900	A1220
INMATE PLEA	<input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty	<input type="checkbox"/> No Plea <input type="checkbox"/> Other	Verdict	<input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty	
HEARING ACTION					
CHARGES 12 (CONTINUED) PAGE #2					
FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED					
<p>HEY NOTES CONTINUE HEARING TILL 9-03-98 TO ALLOW HEY TO PROPERLY DOCUMENT HIS DECISION. AFTER DOCUMENT THE DECISION & PROOF TO GIVE THE DECISION HEY RECORD A TOMORROW PTIT REQUEST 2 WITNESSES BOTH ALLOWED NOTE AM9320 SAID NOTE ABOUT WITNESSES ON 9-02-98.</p> <p>SCRUGGS - WAS NOT ON THE BLOCK AT THIS TIME. AT THE KITCHEN WORK. IT WAS IMPOSSIBLE FOR ME TO KNOW WHERE GAY OR ISKEY WAS. DID GET AN ORDER FOR INVOLVEMENT ON A FLIGHT UNKNOWN INMATE SAME AS ISKEY I WAS LOOKED UP BECAUSE I WAS SUPPOSEDLY STOPPED ON THE PLACE WHERE THE ASSAULT OCCURRED. SITE TOLD ME SITE HAD 10 INMATES THAT TOLD ME AS BEFORE THEM. SITE THOUGHT WE DONE THEM.</p> <p>GAY - I DID NOT PLAN WITH, NOR COMMIT AN ASSAULT ON ANOTHER INMATE WITH AM9320 ISKEY. ISKEY & I HAD JUST COME FROM LUNCH I WENT TO MY CELL DOES KNOW WHAT HE DO AFTER PARTURE. DID NOT ASSAULT ANYONE.</p>					
<input checked="" type="checkbox"/> YES <input checked="" type="checkbox"/> YES <input checked="" type="checkbox"/> YES <input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO <input type="checkbox"/> NO <input type="checkbox"/> NO <input type="checkbox"/> NO	The inmate has heard the decision and has been told the reason for it and what will happen. The circumstances of the charge have been read and fully explained to the inmate. The opportunity to have the inmate's version reported as part of the record was given. The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.			SEE APPENDICES <input type="checkbox"/>
NAME(S) OF HEARING EXAMINER/COMMITTEE (TYPED OR PRINTED)		Hearing Report and all appended information must be signed. Signature indicates finished report with appendices.			
Charles Motlitz		Che. Me. SIGNATURE OF HEARING EXAMINER/COORDINATOR			

DC-141 Rev. 6-84 DISCIPLINARY HEARING REPORT		PART II B		COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS	
DC Number	Name	Institution	Hearing Date	Hearing Time	No. from Par
Am 9320	ISLEY, CHARLES	SCDR	9-03-98	0900	A12200
INMATE PLEA	<input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Not Guilty	<input type="checkbox"/> No Plea <input type="checkbox"/> Other	Verdict <input checked="" type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty		
HEARING ACTION					
CHARGES 12 Page # 3					

FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED

HEY NOTES PREVIOUSLY DETERMINABLE THAT THE 2 C.S.I.'S ARE RELIABLE BASED ON THE RELIABLE EVIDENCE PROVIDED BY COMMISSIONER. INMATE SUGGS NOW COMES IN AND STATES HE WAS CHARGED WITH BEING OUTSIDE THE CELL AS WELL AS DENIAL ISLEY & GAY WITH THE ASSAULT OCCURRED. SUGGS STATES COMMISSIONER TOLD HIM SINCE IT WAS 10 C.S.I.'S WITH IDENTIFIED HIM AS BEING PRESENT AT THE ASSAULT. HEY NOTES THAT THE COMMISSIONER 10 C.S.I.'S A MISCONDUCT WOULD CERTAINLY HAVE BEEN ISSUED. ON 9-2-98 SUGGS WAS STILL AN INVESTIGATIVE STATUS. TO 9-03-98 SUGGS IN GENERAL POPULATION STATUS. HEY CLEARLY DOES NOT BELIEVE THAT COMMISSIONER TOLD 10 C.S.I.'S WITH IDK SUGGS AS BEA PROSECUTOR OR A MISCONDUCT WOULD BEA ISSUED HEY NOTES MANY POSSIBILITIES EVENT THAT 1. SUGGS WAS INVESTIGATED AS TO POSSIBLE INVOLVEMENT IN PLANNING THE ASSAULT, 2. POSSIBLE THAT HE WAS PRESENT AT THE ASSAULT & COMMISSIONER COULD NOT GIVE THE EVIDENCE TO ID SUGGS AS INVOLVED. ISLEY CLAIMS THE C.S.I.'S TO BE UNRELIABLE (CONT.)

<input type="checkbox"/> YES	<input type="checkbox"/> NO	The inmate has heard the decision and has been told the reason for it and what will happen.	SEE APPENDICES <input type="checkbox"/>
<input type="checkbox"/> YES	<input type="checkbox"/> NO	The circumstances of the charge have been read and fully explained to the inmate.	
<input type="checkbox"/> YES	<input type="checkbox"/> NO	The opportunity to have the inmate's version reported as part of the record was given.	
<input type="checkbox"/> YES	<input type="checkbox"/> NO	The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.	

NAME(S) OF HEARING EXAMINER/COMMITTEE
(TYPED OR PRINTED)

C. M. M. M.

Hearing Report and all appended information must be signed. Signature indicates finished report with appendices.

SIGNATURE OF HEARING EXAMINER/COORDINATOR

C. M. M. M.

DC-141 Rev. 6-84 DISCIPLINARY HEARING REPORT		PART II B		COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS		
DC Number AM9320	Name ISLEY, CHARLES	Institution SCF	Hearing Date 0900	Hearing Time 9-3-98	No. from P A1220	
INMATE PLEA	<input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Not Guilty	<input type="checkbox"/> No Plea <input type="checkbox"/> Other	Verdict	<input checked="" type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty		

HEARING ACTION

CHARGES

12 count

PG 14

FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED

BECAUSE OF SOGG'S. THEY NOTES THE MAY POSSIBLE LETTERS O
 SOGG'S POSSIBLE INVOLVEMENT DOES NOT RULE OUT
 THE CREDIBILITY & RELIABILITY OF THE C.S.I.S. THE C.S.
 INFORMATION IS STILL RELIABLE & BELIEVED OVER
 ISLEY & HIS WITNESSES THAT MORE LIKELY THAN NOT
 AM9320 DID PARTICIPATE IN PLANNING (AS DOCUMENTED
 EARLIER) & DID ACT ON THAT PLAN BY STANDARD
 AT THE CELL DOOR. PREPONDERANCE OF EVIDENCE TO
 STARK REPORT & C.S.I. IDENTIFICATION.

SANCTION ABOVE GOODWIN
 DUE TO SERIOUS NATURE OF
 M.C. & SEVERE INJURY TO
 INMATE SMITH

GUEST 1212
 90 DAYS DC.
 EXT 8-26-98

<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	The inmate has heard the decision and has been told the reason for it and what will happen.
<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	The circumstances of the charge have been read and fully explained to the inmate.
<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	The opportunity to have the inmate's version reported as part of the record was given.
<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.

SEE APPENDICES

NAME(S) OF HEARING EXAMINER/COMMITTEE
(TYPED OR PRINTED)

CHARLES MOTE HILL

Hearing Report and all appended information must be signed. Signature indicates finished report with appendices.

Cone

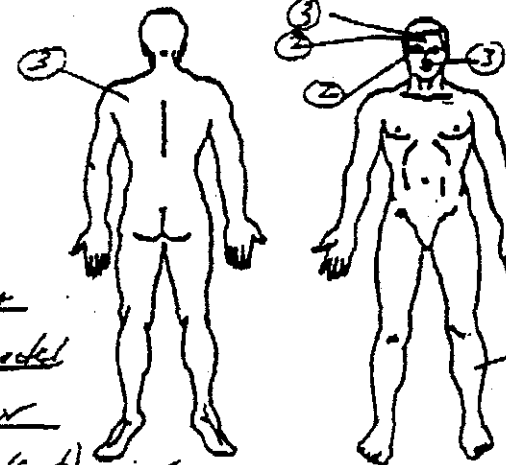
SIGNATURE OF HEARING EXAMINER/COORDINATOR



CF 5358 MICHAEL SMITH
1850 hrs August 24, 1998



CF 5358 MICHAEL SMITH
1850 hrs August 24, 1998

MEDICAL INCIDENT/INJURY REPORT					
PERSON INVOLVED (Last Name) <u>Smith</u> (First Name) <u>Michael</u> (Middle Initial)			Reported To Dispensary: Date: <u>8-24-98</u> Time: <u>1745</u> AM <u>PM</u>		
Male <input checked="" type="checkbox"/> Female <input type="checkbox"/> Age <u>28</u> SSN: <u>187-58-3674</u>					
Date of Incident <u>8-24-98</u>		Time of Incident <u>12:30</u> <input type="checkbox"/> A.M. <input checked="" type="checkbox"/> P.M.		Exact Location of Incident <u>A Bldg Cell 130</u>	
INMATE <input checked="" type="checkbox"/>	Inst. No. <u>CF5358</u>	Housing Unit: <u>A-130</u>	Work Related <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
	SUPERVISOR: _____				
EMPLOYEE <input type="checkbox"/>	Department _____		Job Title _____		
VISITOR <input type="checkbox"/>	Home Address _____			Home Phone _____	
OTHER <input type="checkbox"/>	Occupation _____		Reason for Presence at this Facility _____		
Property Involved <input type="checkbox"/> Equipment Involved <input type="checkbox"/> Describe <u>N/A</u>			Was person authorized to be at location of incident? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Describe Exactly What Happened. Why It Happened. Action Taken. If an Injury, State Part of Body Injured. If Property or Equipment Damaged. Describe Damage. 1. Description of Illness/Injury (5) <u>"I fell out of bed I was sleeping rolled over."</u>					
<u>Brought to Treatment Bldg Dispensary by custody Lt. Facer to be evaluated</u>					
(Continue on Reverse)					
Was Physician Notified? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		Was Family Notified? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
Was Person Involved Seen By A Physician? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		Date <u>8-24-98</u> Time <u>12:30</u> A.M. <input type="checkbox"/> P.M. <input checked="" type="checkbox"/>	Where _____		Physician's Name _____
Was Person Involved Taken To A Hospital? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		Date <u>8-24-98</u> Time <u>12:30</u> A.M. <input type="checkbox"/> P.M. <input checked="" type="checkbox"/>	Where _____		By Whom _____
2. Initial Impression Illness/Injury <u>Blunt force trauma to face</u> <u>Diagnose LOC, PERIL, PERR, PERR</u> <u>intact, skin wtd, color pink</u> <u>lungs clear all fields, & clear</u> <u>SOB, abd soft BS & X 4 quadr</u> <u>& N/V Right eye lid swollen lower lid, hematoma</u> <u>Right cheek Visual acuity O.S. 20/70 O.D. 20/70 uncorrected</u> <u>wears Rx glasses - O.D. sclera white, & blood w</u> <u>discharge no scl. pain behind eye, EOM intact (ent) over</u>		TYPE OF INJURY 1. Laceration <input type="checkbox"/> 2. Hematoma <input checked="" type="checkbox"/> 3. Abrasion <input type="checkbox"/> 4. Burn <input type="checkbox"/> 5. Non Apparent <input type="checkbox"/> 6. Other <input type="checkbox"/> Specify _____			
		Indicate On Diagram Location of Injury 			
3. Treatment Rendered: <u>Exam, VS, Visual acuity, Tylenol 325 mg tid given</u> <u>Ice</u>					
Follow-Up <u>(P) S/L 8-25-98 to be eval. / follow up e PA-C</u>					
Date of Report <u>8-24-98</u>		Signature & Title of Person Preparing Report <u>[Signature]</u>		Reviewing Authority <u>[Signature]</u>	

DISPOSITION AFTER TREATMENT:

1. Return to Block
2. Place in RHU
3. Admit to Infirmary
4. Admit to Community Hospital
5. Return to Work
6. Refer to Physician's Line
7. Refer to Family Physician
8. Refer to Community Hospital

✓ ORAC

(Employee)


DISTRIBUTION:

Original: Medical File

Copies: Superintendent
 Deputy for Operations
 Deputy for Treatment
 Major
 Security Officer
 Other

CONTINUED FROM REVERSE: (Items 1 through 3) (Indicate Item).

#2 ②, hematoma of mid/right side forehead & open areas, upper lip between nose/upper lip abrasion noted & bleeding noted, teeth/bite lines
 jaw pain, abrasion left posterior shoulder brush burn type & bleeding
 abrasion left mid/calf & drainage, c/o pain & palpation of areas of
 abrasions, & bony deformity noted
 (A) A/I Comfort

DC-141 Rev. 6-84 DISCIPLINARY HEARING REPORT		PART II B		COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS	
DC Number AM9230	Name Isley, Charles	Institution SCIR	Hearing Date 8-31-98	Hearing Time 1120	No. from F A122000
INMATE PLEA	<input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty	<input type="checkbox"/> No Plea <input type="checkbox"/> Other	Verdict	<input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty	
HEARING ACTION					
CHARGES		RELIABILITY HEARING			
FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED					
<p>On 8-31-98 this Examiner conducted an IN-Camera hearing with Co3 Eaton to determine the reliability of the confidential of the confidential sources of information utilized in this misconduct report. The reliability hearing was conducted IN-Camera because the very nature of the reliability evidence could, by itself, reveal the identity of the informants. CO3 Eaton provided this Examiner with a preponderance of evidence that the informants meet the criteria outlined under D.C.ADM 801, Reliability.</p> <p>Specifically, CO3 Eaton explained under oath <u>HOW</u> the informants were in a position to observe as well as what information they provided that was cooperated by others, and what information one provided in the past and how that information was proven to be reliable.</p> <p>THE INFORMANTS MEET THE RELIABILITY CRITERIA IN D. C. ADM. 801.</p>					
<input checked="" type="checkbox"/> YES <input checked="" type="checkbox"/> YES <input checked="" type="checkbox"/> YES <input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO <input type="checkbox"/> NO <input type="checkbox"/> NO <input type="checkbox"/> NO	The inmate has heard the decision and has been told the reason for it and what will happen. The circumstances of the charge have been read and fully explained to the inmate. The opportunity to have the inmate's version reported as part of the record was given. The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.			SEE APPENDICES <input type="checkbox"/>
NAME(S) OF HEARING EXAMINER/COMMITTEE (TYPED OR PRINTED)		Hearing Report and all appended information must be signed. Signature indicates finished report with appendices.			
Mr. Charles Mitchell		 SIGNATURE OF HEARING EXAMINER/COORDINATOR			

DC-141

PART II C

COMMONWEALTH OF PENNSYLVANIA

Rev. 6-84

HEARING SUPPLEMENT

DEPARTMENT OF CORRECTIONS

INMATE VERSION AND WITNESS STATEMENTS

DC Number	Name	Institution	No. from PART
-----------	------	-------------	---------------

AM9320

CHARLES ISLEY

SCIR

A122000

INMATE'S VERSION

Prisoner Isley pleads not guilty to the charges for the following reasons and requests that medical/investigative and other reports be placed into evidence and included and identified on the record.

1. There is no evidence whatsoever in the report that Isley conspired with anyone or conspired to do anything.
2. There is no evidence of assault because Smith has never stated that he was assaulted but has, in fact, adamantly denied to Lt. Eaton that he was assaulted and claims he received his injuries. A full IP Smith were lying then Eaton, the security Lt. who investigated this matter, would most assuredly have issued him a misconduct report for lying to an employee. Since such a report was not issued then there is no evidence that an assault or conspiracy thereof occurred. Also, the 24 hour limit has elapsed.
3. The alleged "confidential source informants" are not credible. According to Eaton, as Gay and Scruggs will attest, she had well over ten informants who witnessed the alleged incident. Nonetheless, according to report, only two had similar stories. Two out of ten is not evidence of guilt but of innocence.
4. The alleged informants are not credible because, according to the reports, they witnessed the alleged incident but did not report it to the guard at the alleged scene and did not report it to prison officials until almost a week later, allegedly. Moreover, if Smith went to work that day then why was not his injuries seen?
5. The report is patently false because, according to it, the informants positively identified Isley and Gay on Aug. 24, 1992. However, on the 26th Isley, Gay, and Scruggs all received other reports for allegedly fighting Smith and Isley and Gay did not receive misconduct reports until the 31st. It is perfectly clear from these facts that no identification could have really occurred and ergo the report is obviously false.
6. There is no physical evidence of guilt. There is no such thing as brown work gloves and if they were brown gloves from commissary then they are so thin that it is axiomatic that, by the physical evidence of injuries to Smith, the antagonist's hands would have been bruised, swollen, or broken. However, neither Isley, Scruggs, or Gay had any marks or injuries. Moreover, the relevant "other reports" received were for allegedly fighting Smith revealing the fact that Smith fought against his antagonist and must have injured him. No mask or gloves were found. Commissary gloves should be inspected.
7. The informants' story is absurd because: Why would Bay wear mask and gloves and Isley not? Why would they go into a cell with people right outside? Why would Bay remove his mask in front of everyone? What is the identity of the mysterious prison guard in the report who saw and heard nothing and the informants failed to inform? Why did Smith not cry out for help or in pain? Why does Smith claim he was not assaulted? Why were Isley, Scruggs, and Gay thrown in the hole for allegedly fighting Smith if the informants only saw Bay, as they claim? Since west wing just came back from lunch and the alleged incident occurred on the first level where everyone sits and hangs out until lockup, how come only two people allegedly witnessed the supposed incident? Why was Lewis not found until 5:30 pm?
8. It is clear from the above that the report is obviously, patently, and intentionally false and in violation of the Pa. Crimes Code. Isley did not see or hear anything or know anything because he was not present and had nothing to do with it. It could not have occurred at 12:

WHITE - DC-15

YELLOW - Inmate Cited

PINK - Staff Member Reporting Misconduct

GOLDENROD - Deputy Superintendent

DC-141

PART II A

COMMONWEALTH OF PENNSYLVANIA

Rev. 6-84

INMATE REQUEST FOR
REPRESENTATION AND WITNESSES

DEPARTMENT OF CORRECTIONS

DC Number	Name	Institution	Date	Number as on P
Am9320	CHARLES Isley	SCIR	8-31-98	A122000

You have been charged with a misconduct. You may request assistance and/or witnesses to appear at your hearing by completing the section(s) below.

In order to have assistance or witnesses at your hearing, you must complete this form and present all copies to one of your housing officers no later than 9:00 a.m. the first working day after you receive notice of the misconduct.

Assistance: ☐ I do not request assistance
☐ I request assistance by _____
 (The person requested must be willing to assist you)

Witnesses: You may request witnesses in accord with DC-ADM 801. State the relevance and importance of the testimony the witness will give.

1. Name of Witness: Gay If Inmate No. DA9752 Quarters EWAL 37
 Why is this person's testimony relevant and important?
Material witness to facts & codefendant

DO NOT WRITE IN THIS SECTION
For Use by Hearing Examiner

Witness permitted? YES If not, why not?

2. Name of Witness: Scruggs If Inmate No. AK9691 Quarters EWAL 46
 Why is this person's testimony relevant and important?
Material witness to facts & suspect

Witness permitted? YES If not, why not?

3. Name of Witness: Confidential Source Informant #106 If Inmate No. ? Quarters WW
 Why is this person's testimony relevant and important?
Gave false statements implicating prisoner Isley

Witness permitted? NO If not, why not?

TO AVOID C.S.F.'S WOUND
IDENTITY BOTH TO THE INMATE
WHOM IS CHARGED AND AN ASSISTANT.

C. Isley
Inmate's Signature

ARRIVED AFTER HEARING COMPLETED
ON 9-02-98 WITNESSES AVOID.

This section to be completed by Housing Officer only

Received completed form 1716 hours 8-31-98
Time Date

Cone
Hearing Examiner's Signature

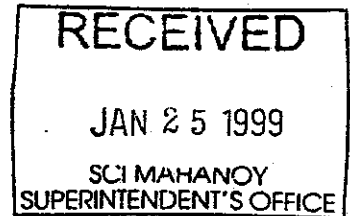
[Signature]
Housing Officer's Signature

EXHIBIT "B"

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
1451 N. MARKET STREET
ELIZABETHTOWN, PA 17022

OFFICE OF THE
CHIEF HEARING EXAMINER

January 13, 1999



Charles Isley, AM-9320
SCI Mahanoy

Re: DC-ADM 804 - Final Review
Grievance Nos. MAH-0449-98 and MAH-0457-98

Dear Mr. Isley:

This is to acknowledge receipt of your appeals to final review of the above numbered grievances.

In accordance with the provisions of DC-ADM 804, VI D, as amended effective November 1, 1997, I have reviewed the entire record of these grievances; including your initial grievance, the Grievance Officer's response, your appeal from initial review and the Superintendent's response. I have also carefully reviewed the issues you raise to final review.

Upon completion this review, it is the decision of this office to uphold the responses provided by staff at the institutional level. I find the issues raised for final review have been addressed by the Grievance Coordinator and the Superintendent, and their responses are reasonable and appropriate.

I concur with the responses already provided at the institution level. Accordingly, your appeals to final review must be denied.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert S. Bitner".

Robert S. Bitner
Chief Hearing Examiner

RSB:ph
pc: Superintendent Dragovich

cc: Mrs. Bitner
DC 15
file

COMMONWEALTH OF PENNSYLVANIA
Department of Corrections
SCI-Mahanoy
(717) 773-2158

December 29, 1998

SUBJECT: Appeal to Supt., Grievance MAH-0457-98

TO: Charles Isley, AM-9320, J/A 15

FROM: *Martin L. Dragovich*
Martin L. Dragovich, Superintendent

Receipt of your appeal to Supt. of grievance MAH 0457-98 is acknowledged. In preparing this response, I have reviewed your original grievance, the grievance officer's response and your appeal to this office.

Your appeal is currently a moot issue inasmuch as you are now in the Restricted Housing Unit and cannot work even if we wanted to assign you a job. The question is, were you assigned a job? During the course of the investigation into your grievance, Mr. Chesney, your Unit Manager, indicated that you did not want a block job because it paid too little money. Accordingly, he did not assign you a block job; therefore, you cannot have been fired from a job. It is further evident that you were being belligerent with Officer McGreth who had to twice tell you to lock up and with whom you used obscenity. You claim an inmate clerk told you that you had a job but you were unable to identify him. Inmates cannot assign jobs to other inmates, only staff can. You will not be paid for a job that you were not assigned.

Based on the foregoing, your appeal is denied.

MLD:dy

cc: Deputy Klem
Deputy Novotney
Mr. Chesney
Officer McGreth
Mrs. Dotter
DC 15
file

JC-135A

RECEIVED

DEC 28 1998

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF CORRECTIONS

SCI MAHANAY
INTENDENT'S OFFICE

INMATE'S REQUEST TO STAFF MEMBER

INSTRUCTIONS

Complete Items Number 1-7. If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently.

1. TO: (NAME AND TITLE OF OFFICER)

Dragovich, warden

2. DATE

98/224

3. BY: (INSTITUTIONAL NAME AND NUMBER)

C. Isley, AM-9320

4. COUNSELOR'S NAME

Fisher

5. WORK ASSIGNMENT

Nil

6. QUARTERS ASSIGNMENT

AHU C-9

7. SUBJECT: STATE COMPLETELY BUT BRIEFLY THE PROBLEM ON WHICH YOU DESIRE ASSISTANCE. GIVE DETAILS.

I wish to appeal grievance #MAH-0457-98 because it is obviously illogical. Firstly, Dotter spoke to Chesney and Mackreth first, then me, and then them again to give them an opportunity to fabricate viable stories. Their story is essentially that I did not lock up, that I lied to Mackreth, and he did not issue me a misconduct. Also, that I stated I did not want a black job and refused to work, but Chesney did not issue a misconduct. That is utterly incredible and unbelievable.

I never stated I did not want a job, I worked that afternoon (and have yet to be paid for it). Chesney and Mackreth lied. I am not working until you pay me the money you owe me for working that afternoon. I do not care if it is only a few cents - you owe it to me. I worked and I want my money. Moreover, Dotter saw me on 98/227 about the grievance and had the interview in front of several guards who have been harassing me about it. Obviously, Dotter's action was to promote retaliation.

8. DISPOSITION: (DO NOT WRITE IN THIS SPACE)

☐ TO DC-14 CAR ONLY☐ TO DC-14 CAR AND DC-15 IRS

STAFF MEMBER

DATE

DC-804
PART II

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001

OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO.

MAH-0457-98

TO: (Name & DC NO.)	INSTITUTION	QUARTERS	GRIEVANCE DATE
Charles Isley, AM-9320	Mahanoy	J/A 15	12/13/98

The following is a summary of my findings regarding your grievance:

I spoke to Mr. Chesney and Officer Mackreth about this incident. Their reports of what happened are quite different than yours.

Officer Mackreth states he had to tell you twice to lock up. You became argumentative and used abusive language. He checked the roster for Block Workers and found your name was not on it. It appears the officer was trying to help you—not harass you.

You told me when we met on 12/17/98, that the Block Clerk said you had a job. However, he denied that statement when questioned.

Your Unit Manager reports you didn't want a block job. Instead of issuing you a misconduct for Refusing to Work, he allowed you the opportunity to seek employment elsewhere. Because he never hired you, no one could fire you.

You claim Mr. Chesney lied to cover up for the officer?? It's the officer's job to ensure all inmates are locked up after 9:00 p.m. Also, the officer gave you the benefit of the doubt and checked the roster and also checked with the Block Clerk.

I find your accusations to be false and your grievance without merit.

CMD:dy

cc: Deputy Klem ✓
Mr. Chesney ✓
CO Mackreth ✓
DC 15 ✓
file ✓

Refer to DC-ADM 804, Section VIII,
for instructions on grievance
system appeal procedures.

SIGNATURE OF GRIEVANCE COORDINATOR

DATE

Carol M. Klotter

12/18/98

804

:1

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO.

MAH-0457-98

GRIEVANCE COORDINATOR Dotter	INSTITUTION Mahanoy	DATE 981213
1. (Commitment Name & Number) C. Isley AM-9320	INMATE'S SIGNATURE C. Isley	
K ASSIGNMENT Nil	QUARTERS ASSIGNMENT JA-15	

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

Brief, clear statement of grievance:

On 981209 I was harassed and threatened and fired from my job (the first day) by prison guard Mackrety who opened my cell door after 9:10 p.m. court and did as already noted above. I notified the unit manager, Chesney, but he intentionally lied stating that I never had a job (I had worked that afternoon) and that there was no harassment/threats. It is clear that he lied because I never informed him of the name of the guard and consequently for the guard to know what was going on when he spoke to him reveals the utter veracity of my words. Chesney is covering up for the prison guard in retaliation for my not being gullible and refusing to converse on any social level with him. He has already stated to other prisoners that he hates me. Personal interview requested.

Actions taken and staff you have contacted before submitting this grievance:

Actions taken: contacted staff
Staff contacted: unit mgr.

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Carol Dotter

Signature of Grievance Coordinator

12/14/98

Date

804
RT II

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001

OFFICIAL INMATE GRIEVANCE
FINAL REVIEW RESPONSE

GRIEVANCE NO.

MAH-0457-98

1. (Name & DC NO.)
Isley, Charles AM9320

INSTITUTION
SCI-Mahanoy

QUARTERS
J/B 1015

GRIEVANCE DATE
12/13/98

The following is a summary of my findings regarding your grievance:

At our initial interview Mr. Isley stated that he did not want a block job because he didn't want to work for that little money. He was never given a block job, therefore was never fired. Why Mr Isley worked that afternoon in question is unknown to me. I specifically informed him during our initial interview that if he refused a job, I could remove him from allowance pay, but I chose not to do so. I wanted to allow him the opportunity to seek a job elsewhere. The rest of the accusations are false and without merit.

TC/mb

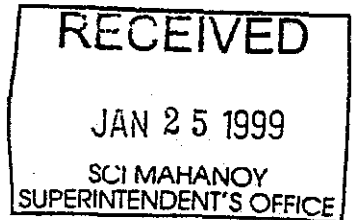
J. Chesney U.M.

cc: Deputy Klem
Unit Manager: Chesney

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
1451 N. MARKET STREET
ELIZABETHTOWN, PA 17022

OFFICE OF THE
CHIEF HEARING EXAMINER

January 20, 1999



Charles Isley, AM-9320
SCI Mahanoy

Re: Misconduct No. A110205

Dear Mr. Isley:

This is in response to your appeal to final review of the above numbered misconduct.

In accordance with DC-ADM 801, VI, I, 3 as amended effective November 1, 1997, I have reviewed the entire record of this misconduct; including the misconduct report, the hearing report and related documents, your appeal to the Program Review Committee and their response, your appeal to the Superintendent and his response. I have also thoroughly reviewed the issues you raise to final review.

The issues you raise to final review have already been addressed by the Program Review Committee and the Superintendent. On review of the record, this Office concurs with their responses. I find no persuasive basis from which to conclude that the Examiner erred in conducting the hearing. The Examiner specifically documented findings of fact based on evidence presented at the hearing to support the decision. The procedures followed were in complete accordance with DC ADM 801, §VI. The sanction imposed is within the presumptive range of misconduct sanctions, is not viewed to be disproportionate to the offense, and therefore will not be amended at this level.

For the above-stated reasons, the responses provided by the Program Review Committee and the Superintendent are upheld in full. Your appeal must, therefore, be denied.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert S. Bitner".

Robert S. Bitner
Chief Hearing Examiner

RSB:ph
pc: Superintendent Dragovich

cc: Dep. (G)
SC 15
Mr. Vnelli
Ms. Brumage
file

EXHIBIT "C"

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
SCI Mahanoy

January 6, 1999

SUBJECT: Appeal to Superintendent, Misconduct #A110205
TO: Charles Isley, AM-9320, RHU C-9
Martin L. Dragovich
FROM: Martin L. Dragovich, Superintendent

Receipt of your appeal to Superintendent of Misconduct #A110205 is acknowledged. In preparing this response, I have reviewed your original misconduct, the Hearing Examiner's disposition, your appeal to PRC, their response and your appeal to this office.

It appears that you are appealing your misconduct based on your belief that:

- a. The procedures employed were contrary to law, Administrative Directive 801, or to the ICU Consent Decree;
- c. The evidence is insufficient to support the decision.

Your appeal to this office contains no new information that would cause me to arrive at a different conclusion than that of the PRC or the Hearing Examiner. A review of the proceedings reveals no violations of the law, Administrative Directive 801, or the ICU Consent Decree. You were not permitted to have your staff witnesses present as you indicated that none of them were present at the time and place of the incident. The Hearing Examiner, therefore, denied them based on lack of relevance. The impartial tribunal is the Hearing Examiner who is not an employee of this institution but rather works for the Department of Corrections. You had the opportunity to be heard and your statements were recorded. The evidence relied upon was the reporting staff member's version which was found more credible than your own and it is within the purview of the Hearing Examiner to determine credibility of witnesses and testimony.

Based upon the foregoing, your appeal is denied.

MLD:dy

cc:	Deputy Klem	Control
	Deputy Novotney	Ms. Bosavage
	Mrs. Cerullo	Mr. Unell
	Mr. Yarnell	DC 15
	Mr. Spaide	file

DC-135A

RECEIVED

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF CORRECTIONS

INMATE'S REQUEST TO STAFF MEMBER

INSTRUCTIONS

Complete Items Number 1-7. If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently.

1. TO: (NAME AND TITLE OF OFFICER)

2. DATE

Dragovich, warden

990105

3. BY: (INSTITUTIONAL NAME AND NUMBER)

C. Isley AM-9320

4. COUNSELOR'S NAME

Fisher

5. WORK ASSIGNMENT

Nil

6. QUARTERS ASSIGNMENT

RHU C-9

7. SUBJECT: STATE COMPLETELY BUT BRIEFLY THE PROBLEM ON WHICH YOU DESIRE ASSISTANCE. GIVE DETAILS.

I wish to appeal misconduct #A110205 because PRC did not take any of my appeal issues into consideration, violating my rights. It is patently obvious that I was denied my rights pursuant to law & other evidence, call witness, an impartial tribunal, to be heard, and not be retaliated against for exercising my rights. This is noted in my written version and PRC appeal. Moreover, the evidence is in the PRC report since the report and the decision both specifically state that I complied with the alleged order.

It is impossible for the PRC to state that they had nothing to support the appeal.

8. DISPOSITION: (DO NOT WRITE IN THIS SPACE)

☐ TO DC-14 CAR ONLY☐ TO DC-14 CAR AND DC-15 IRS

STAFF MEMBER

DATE

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

DC-141 Part III

Program Review Committee

☒ Misconduct Appeal☐ Periodic Review☐ Other

DC Number AM9320	Name Isley, Charles	Institution SCI Mahanoy	Date of Review 12/30/98	Misconduct # A110205
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PROGRAM REVIEW COMMITTEE'S DECISION AND ITS RATIONALE

Inmate Isley appeals based on:

- a. The procedures employed were contrary to law, Administrative Directive 801, or to the ICU Consent Decree;
- c. The evidence was insufficient to support the decision.

The PRC has reviewed the available information concerning this misconduct including the report of Unit Manager Chesney, the findings of the Hearing Examiner, and inmate Isley's appeal.

Inmate Isley appeals that procedures employed were contrary to law, ADM 801, or the ICU Consent Decree. PRC finds nothing to support this appeal.

Inmate Isley also appeals that evidence was insufficient to support the decision. PRC notes that there was no new legitimate evidence to indicate a change of the Hearing Examiner's decision.

DECISION RELATIVE TO HEARING EXAMINER'S VERDICT

☐ Not Applicable ☒ Sustain ☐ Amend ☐ Refer Back for Further Study ☐ Exonerate

Names of Program Review Committee	Signatures	Date
Marva Cerullo, CHCA	<i>Marva Cerullo</i>	12/31/98
Robert Yarnell, Food Services Manager	<i>Robert Yarnell</i>	12/31/98
Richard Spaide, Unit Manager	<i>Richard Spaide</i>	12-31-98

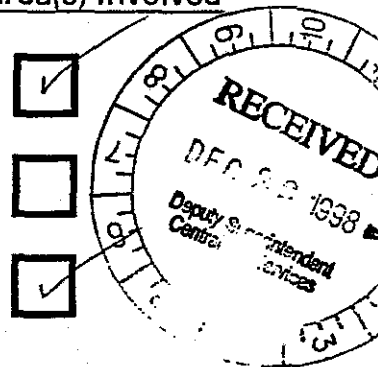
8/2/28

DC-141 PART II E
MISCONDUCT HEARING APPEALCOMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

DC Number	Name	Institution	No. from PAR
AM-9320	C. Isley	Maharaj	A110205

I was found guilty of misconduct # A110205 on 9/8/216 (date) by the Hearing Committee/Examiner, and I wish to appeal that decision on the following grounds:
Check Area(s) Involved

- a. The procedures employed were contrary to law, Administrative Directive 801, or to the ICU Consent Decree;
- b. The punishment is disproportionate to the offense;
- c. The evidence was insufficient to support the decision.



Below is a brief statement of the facts relevant to my claim(s). It includes the identity of all persons who may have information which may be helpful in resolving this matter.

1. There was no evidence to support the charge. The false and retaliatory report clearly states that I complied with the alleged order.

2. The H.E. was biased. This is clear and obvious in the fact that he did not take my defense into consideration at all. It is a fact that it was makeup day for commissary for my block (actually the entire prison) and that other prisoners went on the day in question. Despite these facts, the H.E. erroneously and intentionally ruled that the day in question was not a normally scheduled makeup commissary day for my block. He also did not consider any of the facts which established that the report was retaliatory in nature and utterly false.

3. The H.E. refused to allow me to offer any evidence (documents, etc.) to support the defense of a fabricated and false retaliatory report.

4. The H.E. refused to call any of my witnesses.

5. The H.E. erroneously ruled that I never addressed the incident but my written version pellucidly reveals that he is a vicious liar and just refused to even take my written version into account.

6. The H.E.'s blatant bias is evident in the fact that he ruled that I complied with the order but he still found me guilty. He did so in order to cover for Chesney and to keep me in prison for several more years for nothing.

7. The H.E. ruled that I refused "orders" but never states which one and, in any event, ruled that I complied.

8. Chesney and the H.E. have violated my rights by retaliating against me for filing grievances/lawsuits and the H.E. blatantly violated my hearing rights.

IRM DC-141 PART I COMMONWEALTH OF PENNSYLVANIA

A 110205

MISCONDUCT REPORT ☐ OTHER DEPARTMENT OF CORRECTIONS

IC Number M9320	Name Isley, Charles	Institution SCI MAH	Incident Time 24 Hr. Base 1420	Incident Date 12/14/98	Date of Report 12/14/98
Quarters A1015	Place of Incident Unit Managers Office				

OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)

IC Number	Name	I	W	IC Number	Name	I	W

MISCONDUCT CHARGE OR OTHER ACTION

Class 1, b, 7 Refusing to Obey an Order
Class 1, c, 22 Using Abusive or Obscene Language to an Employee

STAFF MEMBER'S VERSION

Inmate Isley, AM9320 Came to my office to ask permission to go to commissary because he had no money on his account on Friday. I told him no and he became argumentative. I ordered him to leave my office. He continued to argue with me and began using obscene language "You let these other mother fuckers go. Why the fuck can't I go?" Again ordered Mr. Isley to leave my office. He then looked at me and said "you're a real goofball." I ordered him a third time to leave my office. He finally complied.

IMMEDIATE ACTION TAKEN AND REASON

Continue present status pending
Further action by the Hearing
Examiner.

PRE-HEARING CONFINEMENT

IF YES

☐ YES

TIME

DATE

☒ NO

N/A

N/A

☒ REQUEST FOR WITNESSES AND REPRESENTATION☒ INMATE'S VERSIONREPORTING STAFF MEMBER
SIGNATURE AND TITLEACTION REVIEWED AND APPROVED BY
RANKING C.O. ON DUTY

DATE AND TIME INMATE GIVEN COPY

DATE

TIME 24 HOUR BA

Thomas Leachey U.M.

CUTV H. B. By

12-14-98

1730

YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER
DATE TIME

12/16/98

0800

Misconduct Category

☒ CLASS 1 ☐ CLASS 2

Signature of Person Serving Notice

Co. D. Leachey LEACHE

NOTICE TO INMATE

You are scheduled for a hearing on this allegation on the date and the time indicated or as soon thereafter as possible. You may remain silent, if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found

DC-141

PART II B

COMMONWEALTH OF PENNSYLVANIA

Rev. 6-84

DISCIPLINARY HEARING REPORT

DEPARTMENT OF CORRECTIONS

DC Number	Name	Institution	Hearing Date	Hearing Time	No. from Part I
AM9320	ISLEY	SLDMH	12/16/98	1005	A110205
INMATE PLEA	<input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Not Guilty	<input type="checkbox"/> No Plea <input type="checkbox"/> Other	Verdict	<input checked="" type="checkbox"/> Guilty <input checked="" type="checkbox"/> Not Guilty	# 22

HEARING ACTION

CHARGES

B#7

C#22

FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED

H Believes officers/Unit Wgis. Report upon
 Inmate Plea and Version - Hx Mats. he in his
 Version never really addresses the incident
 But deals with the Pretext of retaliation for
 his filing grievances etc. H Believes Inmate
 Isley did refuse orders to leave Unit Wgis
 office after being told "No" to his request for a
 Commissary Pass to Shop after the Blacks
 Scheduled Day. Hx Believes repeated orders
 were issued Prior to Inmate finally complying
 and leaving the office.

Sanction:
 30 Days DC
 eff 12/16/98

☒ YES ☐ NO

☒ YES ☐ NO

☒ YES ☐ NO

☒ YES ☐ NO

The inmate has heard the decision and has been told the reason for it and what will happen.

The circumstances of the charge have been read and fully explained to the inmate.

The opportunity to have the inmate's version reported as part of the record was given.

The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.

SEE APPENDICES

NAME(S) OF HEARING EXAMINER/COMMITTEE
(TYPED OR PRINTED)

K BROWN

Hearing Report and all appended information must be signed. Signature indicates finished report with appendices.

SIGNATURE OF HEARING EXAMINER/COORDINATOR

E.K.
12/16/98

DC-141

PART II C

COMMONWEALTH OF PENNSYLVANIA

Rev. 6-84

HEARING SUPPLEMENT

DEPARTMENT OF CORRECTIONS

INMATE VERSION AND WITNESS STATEMENTS

DC Number	Name	Institution	No. from PART
9m 9320	Isley, Charles	SCIMAH	A110205

INMATE'S VERSION

Prisoner Isley pleads not guilty to both charges. He never used any abusive or obscene language and was never ordered to leave the office (even if he were, there is no evidence to support the charge of refusing to obey an order since the false misconduct report clearly stated that he complied with the order).

On the date in question prisoner Isley asked Chesney to go to commissary since it was make up day because he was just transferred to this prison (and his money had only just arrived on Thursday). However, Chesney denied the request stating that the only excuse for not going on Friday is being on a visit. When Isley pointed out that he was aware of the fact Chesney had permitted other prisoners to go that day without any valid excuse, Chesney stated "So what. You like filing grievances. You like filing lawsuits. I guarantee you won't be in my black much longer. You're a troublemaker. You should never have been released from the R.I.U...." Prisoner Isley just left as Chesney continued talking and subsequently asked prison guard Leachey and the 2-10 p.m. Sgt if he could go to the store. Isley asked Savasser, Chesney, Leachey, and the Sgt in that order.

The testimony of the prison guards will reveal that at no time was Isley disrespectful or argumentative to any of them, request.

Prisoner Isley wishes for the two grievances ^{and} he filed against Chesney to be offered into evidence and in the record as well as the list of inmates who went to commissary on 9/12/04 from U.A. It is a fact that one prisoner (Riggins) got out of the hole on Saturday and was permitted to go to commissary as well as laundry workers whose pay was not on Friday.

It is perfectly clear from the facts that Chesney fabricated the false charges against Isley in retaliation for his filing grievances/lawsuits in order to have Isley thrown in the hole and denied parole (he is scheduled to see the board in February).

In essence, there is no evidence to support the charge of refusing to obey an order because even if the false report were true it clearly stated that Isley complied. There is no evidence to support the charge of using abusive or obscene language because the preponderance of the evidence clearly shows that Isley spoke to other prison guards - before and after Chesney - and made no such statements and was not argumentative and the evidence of retaliation against Isley from Chesney clearly shows, from the grievances and request, that the charges are utterly false. Lastly, Isley is a black man from Philly. He would have said "not just go to the hole" or "not go to the hole", in any event, the alleged statement is neither abusive or obscene.

DC-141

PART II A

COMMONWEALTH OF PENNSYLVANIA

Rev. 6-84

INMATE REQUEST FOR
REPRESENTATION AND WITNESSES

DEPARTMENT OF CORRECTIONS

DC Number AM 9320	Name Isley, Charles	Institution SCIMAH	Date 12-14-98	Number as on P A110205
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You have been charged with a misconduct. You may request assistance and/or witnesses to appear at your hearing by completing the section(s) below.

In order to have assistance or witnesses at your hearing, you must complete this form and present all copies to one of your housing officers no later than 9:00 a.m. the first working day after you receive notice of the misconduct.

Assistance: ☐ I do not request assistance
☐ I request assistance by _____
 (The person requested must be willing to assist you)

Witnesses: You may request witnesses in accord with DC-ADM 801. State the relevance and importance of the testimony the witness will give.

1. Name of Witness: **2-10 Sgt on JA on 981214** If Inmate No. Quarters
 Why is this person's testimony relevant and important?
Involved in incident alleged

DO NOT WRITE IN THIS SECTION
For Use by Hearing Examiner

Witness permitted? If not, why not?

2. Name of Witness: **C.O. Sausser** If Inmate No. Quarters
 Why is this person's testimony relevant and important?
Involved in incident alleged

Witness permitted? If not, why not?

3. Name of Witness: **C.O. Leachey** If Inmate No. Quarters
 Why is this person's testimony relevant and important?
Involved in incident alleged

Witness permitted? If not, why not?

C. Isley
Inmate's Signature

R. Brien
Hearing Examiner's Signature

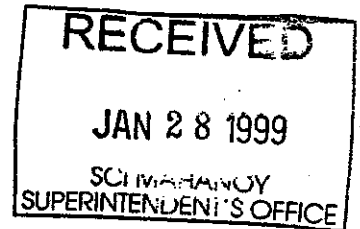
This section to be completed by Housing Officer only

Received completed form **0755** hours **12/15/98**
 Time Date

Abraham Sausser
Housing Officer's Signature

EXHIBIT "D"

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
1451 N. MARKET STREET
ELIZABETHTOWN, PA 17022



OFFICE OF THE
CHIEF HEARING EXAMINER

January 27, 1999

Charles Isley, AM-9320
SCI Mahanoy

Re: DC-ADM 804 - Final Review
Grievance Nos. MAH-0462-98 and MAH-0480-98

Dear Mr. Isley:

This is to acknowledge receipt of your appeal to final review of the above numbered grievances.

In accordance with the provisions of DC-ADM 804, VI D, as amended effective November 1, 1997, I have reviewed the entire record of these grievances; including your initial grievance, the Grievance Officer's response, your appeal from initial review and the Superintendent's response. I have also carefully reviewed the issues you raise to final review.

Upon completion this review, it is the decision of this office to uphold the responses provided by staff at the institutional level. I find the issues raised for final review have been addressed by the Grievance Coordinator and the Superintendent, and their responses are reasonable and appropriate.

Your appeal of MAH-0479-98 will not be accepted for final review as you have failed to properly complete appeal of this grievance from initial review.

I concur with the responses already provided at the institution level. Accordingly, your appeal to final review must be denied.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert S. Bitner".

Robert S. Bitner
Chief Hearing Examiner

RSB:ph
pc: Superintendent Dragovich

CC: Mrs. Dotter
DA5

COMMONWEALTH OF PENNSYLVANIA
Department of Corrections
SCI Mahanoy
(717) 773-2158
January 11, 1999

SUBJECT: Appeal to Superintendent
Grievance #MAH-0462-98

TO: Charles Isley
AM-9320

FROM: *Martin L. Dragovich*
Martin L. Dragovich
Superintendent
SCI Mahanoy

Receipt of your appeal to Superintendent of grievance #MAH-0462-98 is acknowledged. In preparing this response, I have reviewed your original grievance, the Grievance Officer's response and your appeal to this office.

Having reviewed Mrs. Dotter's response, I find that it is accurate and complete. I would only add that this matter has previously been litigated and supported by the courts specifically as it relates to this institution. The response does answer your grievance, it only does not provide you with the answer you were looking for. Staff must be able to see in your cell at all times to conduct security and safety visual checks to ensure that you are not in any danger. These lights are low intensity and enable us to see in your cell at night and are part of the original design feature of this institution.

Based upon the foregoing, your appeal is denied.

MLD:pld

Cc: Deputy Novotney
Deputy Klem
Lt. Fryzel
Mrs. Dotter
DC-15
file

DC-135A

RECEIVED

COMMONWEALTH OF PENNSYLVANIA

JAN 11 1999

DEPARTMENT OF CORRECTIONS

INMATE'S REQUEST TO STAFF MEMBER

SCI MAHANOTY
SUPERINTENDENT'S OFFICE

INSTRUCTIONS

Complete Items Number 1-7. If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently.

1. TO: (NAME AND TITLE OF OFFICER)

Dragovich, warden

2. DATE

990109

3. BY: (INSTITUTIONAL NAME AND NUMBER)

C. Isley

4. COUNSELOR'S NAME

Fisher

5. WORK ASSIGNMENT

M-1

6. QUARTERS ASSIGNMENT

RHV C-9

7. SUBJECT: STATE COMPLETELY BUT BRIEFLY THE PROBLEM ON WHICH YOU DESIRE ASSISTANCE. GIVE DETAILS.

I wish to appeal grievance # MTH-0462-98 because the response does not answer my grievance. I wish to know why the lights are kept on all evening, night and morning. The response simply states "for security". It does not state why. I wish to know what the "security" reason is. Being in perpetual light is psychological warfare/torture, as you well know.

8. DISPOSITION: (DO NOT WRITE IN THIS SPACE)

☐ TO DC-14 CAR ONLY☐ TO DC-14 CAR AND DC-15 IRS

STAFF MEMBER

DATE

DC-804
PART IICOMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO.

MAH-0462-98

TO: (Name & DC NO.)	INSTITUTION	QUARTERS	GRIEVANCE DATE
Charles Isley, AM-9320	Mahanoy	RHU C-9	12/17/98

The following is a summary of my findings regarding your grievance:

The low-intensity night lights are necessary for security in the L-5 unit. Therefore, the procedures of putting the lights on from dusk until dawn will continue.

CMD:dy

cc: Deputy Klem
Deputy Novotney
Lt. Fryzel
DC 15
file

Refer to DC-ADM 804, Section VIII,
for instructions on grievance
system appeal procedures.

SIGNATURE OF GRIEVANCE COORDINATOR

Carol M. Kotter

DATE

1/8/98

3-804
RT 1COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO.

MAH-0462-98

GRIEVANCE COORDINATOR

Dotter

INSTITUTION

Mahanoy

DATE

98/12/17

COMMITMENT (Commitment Name & Number)

C. Isley AM-9320

INMATE'S SIGNATURE

C. Isley

WORK ASSIGNMENT

Nil

QUARTERS ASSIGNMENT

RHU C-9

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Brief, clear statement of grievance:

I wish to know why my cell light is remains on all evening and all night and half the morning. According to staff it is policy. However, having the cell light on all night is a violation of my constitutional rights as established by the federal courts. It is a form of sleep deprivation. No other prison has such a policy (at one time there was - but it was ceased by the courts). Consequently, I wish for this policy to be eradicated both with.

B. Actions taken and staff you have contacted before submitting this grievance:

Actions taken: Contacted staff
Staff contacted: RHU staff

Your grievance has been received and will be processed in accordance with DC-ADM 804.

C. Dotter

Signature of Grievance Coordinator

12/18/98

Date

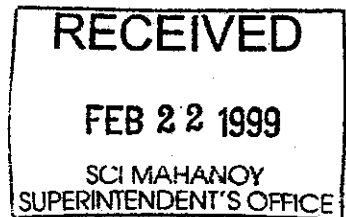
EXHIBIT "E"

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
1451 N. MARKET STREET
ELIZABETHTOWN, PA 17022

OFFICE OF THE
CHIEF HEARING EXAMINER

February 17, 1999

Charles Isley, AM-9320
SCI Mahanoy



Re: DC-ADM 804 - Final Review
Grievance Nos. MAH-0002-99, MAH-0011-99
and ROC-1015-98

Dear Mr. Isley:

This is to acknowledge receipt of your appeals to final review of the above numbered grievances.

In accordance with the provisions of DC-ADM 804, VI D, as amended effective November 1, 1997, I have reviewed the entire record of these grievances; including your initial grievance, the Grievance Officer's response, your appeal from initial review and the Superintendent's response. I have also carefully reviewed the issues you raise to final review.

Upon completion this review, it is the decision of this office to uphold the responses provided by staff at the institutional level. I find the issues raised for final review have been addressed by the Grievance Coordinator and the Superintendent, and their responses are reasonable and appropriate.

I concur with the responses already provided at the institution level. Accordingly, your appeals to final review must be denied.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert S. Bitner".

Robert S. Bitner
Chief Hearing Examiner

RSB:ph
pc: Superintendent Dragovich
Superintendent Meyers

Handwritten initials "DC 15" followed by a checkmark.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
SCI Mahanoy
(717) 773-2158

January 26, 1999

SUBJECT: Appeal to Superintendent, Grievance #MAH-0002-99

TO: Charles Isley, AM-9320, RHU

FROM: 
Martin L. Dragovich, Superintendent

I am in receipt of your appeal from initial review which was received in this office on January 26, 1999.

A review of your appeal to this office contends that our psychologist, Mr. Dennison, misrepresented himself to you as a member of the parole board and that at the time the inmate program manager saw you for the initial review, the inmate program manager, Mr. Unell, did not explain things satisfactorily to you.

I have reviewed your initial inmate grievance, the initial review response, and your appeal to this office. I must first point out to you that use of the grievance system shall be done in good faith and for a good cause.

It is further noted that inmates must make a genuine effort to resolve the problem before the grievance system is utilized. In this particular case, I find no effort being made on your part.

Upon review of all the information presented, I find no violations of Department of Corrections policy.

The psychologist was following established and routine procedures relative to reports needed and requested by the parole board. You apparently misunderstood Mr. Dennison's explanation. Nonetheless, the subsequent explanation offered by the inmate program manager at the initial review response was comprehensive and sufficient. I further note that the inmate program manager had a personal interview with you and fully explained the issues you grieved.

Upon review of all the information presented, the response in findings of the grievance officer are sustained.

EJK:dy

cc:	Deputy Klem	Control
	Deputy Novotney	Ms. Bosavage
	Mr. Unell	DC 15
	Mr. Dennison	file
	Mrs. Dotter	

DC-135A

RECEIVED

INMATE'S REQUEST TO STAFF MEMBER

SUPERVISOR

OFFICE

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

INSTRUCTIONS

Complete Items Number 1-7. If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently.

1. TO: (NAME AND TITLE OF OFFICER)

Dragovich, warden

2. DATE

990123

3. BY: (INSTITUTIONAL NAME AND NUMBER)

C. Isley Am-9320

4. COUNSELOR'S NAME

Nil

5. WORK ASSIGNMENT

Nil

6. QUARTERS ASSIGNMENT

IB-16

7. SUBJECT: STATE COMPLETELY BUT BRIEFLY THE PROBLEM ON WHICH YOU DESIRE ASSISTANCE. GIVE DETAILS.

I wish to appeal grievances MAH-0002-99 and MAH-0011-99. The former is appealed because Dennison misrepresented himself to me and told me that I had to sign the form to be reviewed for parole - which was not true. Unell did not explain anything to me save for that the parole board and prison will draw negative inferences from my refusal. The psychology staff did not tell me anything as the only one I saw was Dennison. You should have informed the board why I refused to sign.

The latter grievance is appealed because I asked Cerullo the proper procedure to follow for the relevant referrals to be procured. However, she told me that they could not. Now she says something different, I have already signed up for sick call and was told I would be placed on the list to see the optometrist and ophthalmologist (I was scheduled to see an ophthalmologist in February at Rockview prison). I do not believe the grievance should have been sent to her since it was filed on her.

8. DISPOSITION: (DO NOT WRITE IN THIS SPACE)

☐ TO DC-14 CAR ONLY☐ TO DC-14 CAR AND DC-15 IRS

STAFF MEMBER

DATE

DC-804
PART II

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001

SCI MAHANAY RECEIVED JAN 06 1999 INMATE PROGRAM MANAGER
--

OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO. MAH-0002-99

TO: (Name & DC NO.) ISLEY, CHARLES AM-9320	INSTITUTION SCI-MAHANAY	QUARTERS RHU	GRIEVANCE DATE 1/06/99
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The following is a summary of my findings regarding your grievance:

This is in response to Grievance No. MAH-0002-99. I note that I spoke with you at length regarding this grievance in our meeting in the RHU on 1/14/99. I note the following: You acknowledged during our meeting that Mr. Dennison did not introduce himself as a Parole Board member. It was your assumption that he worked for the PBPP. You are now well aware that he is a Psychological Services Associate and a member of the Psychology Department. It is noted that Mr. Dennison presented a mental health informed consent document to you on 12/17/98. At that time you decided to sign the form after it was reviewed. On 12/24/98 you wrote a request to Mr. Youron, Chief Psychologist requesting that your consent be revoked and that the original document be returned to you. In response to your request slip, dated 12/24/98, Mr. Youron wrote back to you and informed you that your consent was, in fact, revoked. You acknowledged to me on 1/14/99 that you did receive the original document. Also, I note that a DC-14 entry was made indicating that you had revoked your consent. Be informed then, that at this point in time, we do not have your consent regarding the mental health informed consent policy/document.

In accordance with the policy 7.3.1, I cautioned you that recipients of the reports (e.g.: staffing committees and the Parole Board) "may draw negative inferences" from your refusal. The psychology staff also gave you such counsel. I also explained to you the significance of your refusal and the impact of it. I remind you also that you may decide to give your consent at a later point in time. You stated that you fully understood our conversation. You also stated that you still wish to refuse to sign the mental health informed consent document.

In that all of the elements of your grievance have been fully addressed, I recommend no further action regarding this grievance.

rh/

cc: Deputy Klem
Mr. Youron
Mr. Dennison
file

Refer to DC-ADM 804, Section VIII,
for instructions on grievance
system appeal procedures.

SIGNATURE OF GRIEVANCE Officer

James D. Snell

DATE

1/14/99

C-804
RT 1COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598SCI MAHANOY
RECEIVED

JAN 06 1999

INMATE PROGRAM MANAGER

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO.

MAH-0002-99

GRIEVANCE COORDINATOR <i>Dotter</i>	INSTITUTION <i>Mahano</i>	DATE <i>990103</i>
COM: (Commitment Name & Number) <i>C. Isley AM-9320</i>	INMATE'S SIGNATURE <i>C. Isley</i>	
WORK ASSIGNMENT <i>Nil</i>	QUARTERS ASSIGNMENT <i>RTU C-9</i>	

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

Brief, clear statement of grievance:

A person by the name of Denison misrepresented himself to me in order to trick me into signing the Mental Health Informed Consent Document. He stated that I had to sign it to be evaluated for parole pursuant to the "Austin" litigation. I have since ascertained that he is not employed by the parole board and that I was not required to sign anything for parole evaluation. Consequently, I want the original of the document and any and all copies as I do not give permission for anything and my signature is invalid as it was obtained illegally.

Actions taken and staff you have contacted before submitting this grievance:

Actions taken: Contacted staff
Staff contacted: Brown, Youson

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Signature of Grievance Coordinator

Date

1/4/99

EXHIBIT "F"

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
1451 N. MARKET STREET
ELIZABETHTOWN, PA 17022

OFFICE OF THE
CHIEF HEARING EXAMINER

March 3, 1999

Charles Isley, AM-9320
SCI Mahanoy

Re: DC-ADM 804 - Final Review
Grievance No. MAH-0035-99

Dear Mr. Isley:

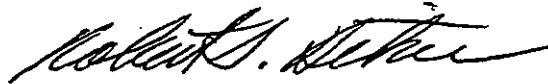
This is to acknowledge receipt of your appeal to final review of the above numbered grievance.

In accordance with the provisions of DC-ADM 804, VI D, as amended effective November 1, 1997, I have reviewed the entire record of this grievance; including your initial grievance, the Grievance Officer's response, your appeal from initial review and the Superintendent's response. I have also carefully reviewed the issues you raise to final review.

Upon completion this review, it is the decision of this office to uphold the responses provided by staff at the institutional level. I find the issues raised for final review have been addressed by the Grievance Coordinator and the Superintendent, and their responses are reasonable and appropriate.

I concur with the responses already provided at the institution level. Accordingly, your appeal to final review must be denied.

Sincerely,



Robert S. Bitner
Chief Hearing Examiner

RSB:ph
pc: Superintendent Dragovich

cc: Deps (2)
Mrs. Bitner
DC 15

COMMONWEALTH OF PENNSYLVANIA
Department of Corrections
SCI-Mahanoy
(717) 773-2158

February 17, 1999

SUBJECT: Appeal to Supt., Grievance MAH-0035-99

TO: Charles Isley, AM-9320, I/B 16

Martin L. Dragovich
FROM: Martin L. Dragovich, Superintendent

Receipt of your appeal to Supt. of grievance MAH-0035-99 is acknowledged. In preparing this response, I have reviewed your original grievance, the Grievance Officer's response and your appeal to this office.

As Lt. Mahally has already indicated, there are indications that you have at one time had seven magazines in your possession upon arrival at SCI Mahanoy. These items were not present in your cell when your property was packed following your confinement to the RHU on 12/16/98. Furthermore, when you were in the Property Room on 12/22/98 to pick up legal materials, you failed to make mention of any of these items missing from your property.

Finally, you have presented no conclusive proof that you had the items in question in your property at the time you were placed in the Restricted Housing Unit. The presence of an item at the time of your arrival in this institution does not necessarily prove that it was present weeks, months, or years later as property can be lost, destroyed, stolen, given to another party, or mailed out. The institution does not assume responsibility for lost or stolen property unless it is due to the negligence of staff. This requires proof and in the absence of any proof in this instance, I must deny your grievance.

MLD:dy

cc: Deputy Novotney
Deputy Klem
Mrs. Dotter
Lt. Mahally
DC 15
file

DC-804
PART II

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001

OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO.

MAH-0035-99

TO: (Name & DC NO.) C. Isley AM-9320	INSTITUTION SCI-Mahanoy	QUARTERS I/B 16	GRIEVANCE DATE 1/28/99
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The following is a summary of my findings regarding your grievance:

This is in response to your grievance concerning your property. The personal property inventory that accompanied you when you arrived at SCI-Mahanoy reflects that you had seven magazines.

Following your confinement to the RHU on 12/16/98, all of your property that was present in your cell was packed and removed by Sgt. Birosak. Your property was then secured in the Property Room until it was inventoried by Officer Peek. The Personal Property Inventory dated 12/17/98 does not show that any magazines were present with your property at that time. You received your copy of this inventory with your basic RHU issue.

Not only did the Property Room not receive any requests from you concerning any missing items while you were in the RHU, but you also failed to mention anything concerning these items when you were in the Property Room on 12/22/98 to pick up some legal material.

Based on the information above, I conclude that there were no magazines present with your property when it was packed and removed from your cell. Unless you can provide me with proof that these items were present with your property at the time of your confinement, I will take no further action on this matter.

In addition, excessive state-issued items do not require a Confiscation Slip as long as they are not related to a misconduct.

LPM:js

cc: Deputy Novotney
Deputy Klem
~~Mrs. Dotter~~
Records DC-15
Sgt. Birosak
COI Peek
file

L.P. Mohr COTT

RECEIVED

DC-135A

FEB 17 1999

COMMONWEALTH OF PENNSYLVANIA

SCI MAHANNOY
SUPERINTENDENT'S OFFICE

DEPARTMENT OF CORRECTIONS

INMATE'S REQUEST TO STAFF MEMBER

INSTRUCTIONS

Complete Items Number 1-7. If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently.

1. TO: (NAME AND TITLE OF OFFICER)

2. DATE

3. BY: (INSTITUTIONAL NAME AND NUMBER)

4. COUNSELOR'S NAME

5. WORK ASSIGNMENT

6. QUARTERS ASSIGNMENT

7. SUBJECT: STATE COMPLETELY BUT BRIEFLY THE PROBLEM ON WHICH YOU DESIRE ASSISTANCE. GIVE DETAILS.

I wish to appeal grievance #MAH-0035-99 because I did not find out the items were missing until after I got out of the hole. They were in my legal property on 981228 when I checked it and took other legal material out. Moreover, there is a lot of property that was not on my inventory sheet. They took my property and I wish to be reimbursed.

8. DISPOSITION: (DO NOT WRITE IN THIS SPACE)

☐ TO DC-14 CAR ONLY☐ TO DC-14 CAR AND DC-15 IRS

STAFF MEMBER

DATE

DC-804

PART 1

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO.

MAH-0035-99

TO: GRIEVANCE COORDINATOR

INSTITUTION

DATE

Dotter

Mahanoy

990127

FROM: (Commitment Name & Number)

INMATE'S SIGNATURE

C. Isley AM-9320

C. Isley

WORK ASSIGNMENT

QUARTERS ASSIGNMENT

M.P.

IB-16

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Brief, clear statement of grievance:

On 980114 I was released from the and some of my property was missing. I informed the sergeant who instructed me to write the property room, which I did - twice. The missing property consists of several brown socks and white boxer shorts (I had more than the limit because of the items given to me upon my arrival by clothing exchange) and all but save for two pornographic books. I received no confiscation slips and, according to other prisoners, it is common practice for pornographic books to be taken. However, these books were exhibits for my lawsuit in the Western District Federal Court and therefore I want them returned immediately or to have confiscation slips. They were included in my inventory sheets (most of them) from Rockview prison. I have grievances to verify receipt of the others at Rockview. Else, I wish to be reimbursed.

B. Actions taken and staff you have contacted before submitting this grievance:

Actions taken: Contacted staff.

Staff contacted: Property Room Sgt., Property Room staff

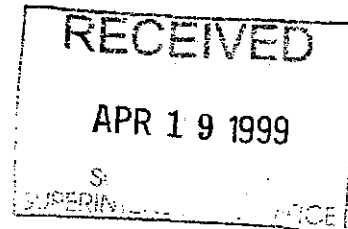
Your grievance has been received and will be processed in accordance with DC-ADM 804.

Signature of Grievance Coordinator

Date

EXHIBIT "G"

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
1451 N. MARKET STREET
ELIZABETHTOWN, PA 17022



OFFICE OF THE
CHIEF HEARING EXAMINER

April 12, 1999

Charles Isley, AM-9320
SCI Mahanoy

Re: DC-ADM 804 - Final Review
Grievance No. MAH-0076-99

Dear Mr. Isley:

This is to acknowledge receipt of your appeal to final review of the above numbered grievance.

In accordance with the provisions of DC-ADM 804, VI D, as amended effective November 1, 1997, I have reviewed the entire record of this grievance; including your initial grievance, the Grievance Officer's response, your appeal from initial review and the Superintendent's response. I have also carefully reviewed the issues you raise to final review with the Bureau of Health Care Services.

Upon completion this review, it is the decision of this office to uphold the responses provided by staff at the institutional level. I find the issues raised for final review have been addressed by the Grievance Coordinator and the Superintendent, and their responses are reasonable and appropriate.

I concur with the responses already provided at the institution level. Accordingly, your appeal to final review must be denied.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert S. Bitner".

Robert S. Bitner
Chief Hearing Examiner


RSB:ph
pc: Superintendent Dragovich

cc: Dab

COMMONWEALTH OF PENNSYLVANIA
Department of Corrections
SCI Mahanoy
(717) 773-2158
March 24, 1999

SUBJECT: Appeal to Superintendent
Grievance #MAH-0076-99

TO: Charles Eisley
AM-9320, I/B Unit

FROM: 
Martin L. Dragovich
Superintendent
SCI Mahanoy

Receipt of your appeal to Superintendent of grievance #MAH-0076-99 is acknowledged. In preparing this response, I have reviewed your original grievance, the Grievance Officer's response and your appeal to this office.

It appears that at least six responses have been prepared for request slips you sent to Medical regarding various different issues. As Mrs. Cerullo has noted, you cannot change an order after the fact with regard to glasses. You did not sign a cash slip for photogray lenses, therefore, none was ordered. You also claim that improper charges were filed against your account for sick call because you claim a chronic condition. Mrs. Cerullo's response reflects that she has no inmate requests on file regarding improper charges and instructed you to send her a request with the dates of said charges and it would be investigated. It is up to you to follow up in this regard. As for treatment of Hepatitis C, there is currently no treatment protocol for the treatment of this disease. This is currently being looked at by the Bureau of Health Care Services for the Department of Corrections and when one is available, it will be followed. In the meantime, experimental treatments are not permitted and only those treatments approved by the vendor will be permitted provided they are not contraindicated by other existing conditions. Treatment of your "visual imperfection" would not be corrected through corneal implants or photorefractive keratotomy, as this is done for cosmetic reasons and could be corrected through corrective lenses. Orthodontal referrals and treatment are only made if indicated by the dentist and again such referrals will be made only if medically indicated and not for cosmetic reasons.

It is apparent that you used the grievance system to argue a laundry list of complaints which apparently have already been addressed with you and which you do not wish to accept. Medical treatment is provided and referrals are made based upon competent medical judgment. Costly cosmetic procedures are not performed when less costly alternatives are available. An example, as noted earlier is corrective lenses as opposed to radial keratotomy.

Based upon the foregoing, your appeal is denied.

MLD:pld

Cc: Deputy Novotney
Deputy Klem
~~Mrs. Potter~~
Mrs. Cerullo
DC-15
file

DC-135A

RECEIVED

COMMONWEALTH OF PENNSYLVANIA

MAR 24 1999 DEPARTMENT OF CORRECTIONS

INMATE'S REQUEST TO STAFF MEMBER

SCJ MAHANOY
SUPERINTENDENT'S OFFICE

INSTRUCTIONS

Complete Items Number 1-7. If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently.

1. TO: (NAME AND TITLE OF OFFICER)

Dragovich, warden

2. DATE

990324

3. BY: (INSTITUTIONAL NAME AND NUMBER)

E. Isley AM-9320

4. COUNSELOR'S NAME

Nil

5. WORK ASSIGNMENT

Nil

6. QUARTERS ASSIGNMENT

IB-16

7. SUBJECT: STATE COMPLETELY BUT BRIEFLY THE PROBLEM ON WHICH YOU DESIRE ASSISTANCE. GIVE DETAILS.

I wish to appeal grievance MAH-0076-99 because the response is nonsensical. According to the medical dept. I cannot receive laser surgery of any kind to correct my eye disorder nor can I receive any orthodontal treatment. Moreover, since I cannot have photographic lenses I do not want the glasses - I want my money back and I never received the glasses. Lastly, I did send a request slip, concerning the wrongful charge of my account but nothing was done.

8. DISPOSITION: (DO NOT WRITE IN THIS SPACE)

☐ TO DC-14 CAR ONLY☐ TO DC-14 CAR AND DC-15 IRS

STAFF MEMBER

DATE

DC-804
PART IICOMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO.

MAH 0076-99

TO: (Name & DC NO.) Charles Isley AM - 9320	INSTITUTION SCI Mahanoy	QUARTERS I/B	GRIEVANCE DATE March 04, 1999
---	----------------------------	-----------------	----------------------------------

The following is a summary of my findings regarding your grievance:

Mr. Isley:

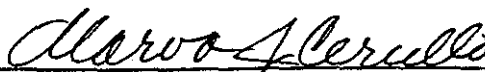
You did not sign a cash slip for photo gray lenses therefore they were not ordered. You cannot change your order after the fact. (Response to Inmate Request 2/18/99 twice).

Regarding ophthalmologist and orthodontist see prior responses to Inmate Request dated 1/4/99, 2/3/99, 2/16/99, 2/26/99. Our responses do not change on four occasions why would they change now? I have no inmate request in my file regarding improper charges. Send an Inmate Request with the dates of said charges and someone will investigate.

cc: Deputy Klem
Deputy Novotney
Carol Dotter
Inmate Records
File

Refer to DC-ADM 804, Section VIII,
for instructions on grievance
system appeal procedures.

SIGNATURE OF GRIEVANCE COORDINATOR



DATE

3/18/99

DC-804
ART 1COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO.

MAH-007699

TO: GRIEVANCE COORDINATOR

INSTITUTION

DATE

Dotter

Mahanoy

990304

FROM: (Commitment Name & Number)

INMATE'S SIGNATURE

C. Isley AM-9320

C. Isley

WORK ASSIGNMENT

QUARTERS ASSIGNMENT

M-1

IK-16

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Brief, clear statement of grievance:

I contacted Cerullo & Diaz concerning the medical department's charging me, wrongfully, for sick call for a chronic condition; being charged for glasses I do not want because they are not phisgray; the medical department's allegation that there is no treatment for hepatitis C; the medical department's refusal to refer me to an ophthalmologist concerning my visual imperfection in my left eye; the medical department's refusal to refer me to an ophthalmologist for corneal implants or photorefractive keratectomy; the medical department's refusal for orthodontal referrals/treatment. I wish to know why I am being denied adequate medical care.

B. Actions taken and staff you have contacted before submitting this grievance:

Actions Taken: Contacted staff
Staff contacted: Cerullo, Diaz

Your grievance has been received and will be processed in accordance with DC-ADM 804.

C. Dotter
Signature of Grievance Coordinator

3/5/99
Date

EXHIBIT "H"

05/29/01 14:27 FAX 3673912

DOC TRNG ACAD

002

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
1451 N. MARKET STREET
ELIZABETHTOWN, PA 17022

OFFICE OF THE
CHIEF HEARING EXAMINER

September 22, 1999

Charles Isley, AM-9320
SCI Mahanoy

Re: DC-ADM 801 - Final Review
Misconduct No. A27518

Dear Mr. Isley:

Your appeal of the above-referenced misconduct has been received by this office and is accepted for final review. I am accepting your appeal for final review without the benefit of having the records of your appeals to the PRC and the Superintendent. Since you neglected to include these records with your appeal, I attempted to obtain them for you. I have been unsuccessful due to your transfers from Mahanoy to Greene to Pittsburgh.


In accordance with DC-ADM 801, VI, I, 3, as amended effective November 1, 1997, I have reviewed the record of this misconduct; including the misconduct report, the hearing report and related documents. I have also thoroughly reviewed the issues you raise to final review.

There is sufficient evidence in the misconduct report to sustain a finding of guilt. At your hearing, and in this appeal, you deny some of that evidence. The only issue here is one of credibility. DC-ADM 801, §VI G, 5 d, provides that determinations of credibility shall be left to the judgement of the Hearing Examiner. The Examiner discredited your denials and found credible the evidence related by the charging officer in the misconduct report. There is no basis for this office to overturn the Examiner's determination of credibility. Therefore, the preponderance of the credible evidence presented at your hearing supports the finding of guilt the Examiner made.

Your allegations that Mr. Kane is "well known for his prejudice and is currently under investigation for same" is unfounded and inaccurate. Your opinions about Mr. Kane's qualifications to serve as a hearing examiner are both inappropriate and irrelevant.

For the above-stated reasons, I conclude that the issues raised do not require any further action on this misconduct. Your appeal must, therefore, be denied.

Sincerely,



Robert S. Bitner
Chief Hearing Examiner

RSB:ph

pc: Superintendent Dragovich

Re: Misconduct Appeal # A27518
Grievance Appeal

Charles Toley, AM-9320
 301 Morice Rd
 Frackville, PA 17932

Robert Bitner, chief hear. ex.
 Pa. Dept. of Cor.

990914

P.O. Box 598
 Camp Hill, PA 17001

OFFICE
 OF THE

SEP 1 1999

CHIEF
 HEARING EXAMINER

Bitner:

I wish to appeal the above misconduct because my appeal issues were not addressed. The hearing examiner was biased and did not even read my version and said that his guards do not lie. He is well known for his prejudice and is currently under investigation for same. He should not even be a hearing examiner considering how his father was killed. Also, I was in prehearing confinement at 17:20 and not 20:10. The guard attempted to force me to throw out my legal work in retaliation for my filing a lawsuit and when I refused he called me a nigger and assaulted me and later threatened me with harm and death while spearing racial slurs at me. I wish for he and I to be given polygraphs to reveal who the lying vicious racist is.

Moreover, my property, including my legal work concerning an upcoming trial disappeared from my property several days after my hearing. Quite clearly, you set me up to steal my trial documents to hinder my legal progress.

I also wish to appeal the rejection of my grievance dated 990906 because the rejection is illogical. My property (legal work, books, magazines, chess set, etc.) are missing and you are refusing to reimburse me or find my "lost" property. I cannot even ascertain everything that is missing because I am not able to perform an adequate check of my property. Being handcuffed with a belt and not allowed to remove anything from a box is not adequate.

Signed,

Charles Daley

05/29/01 14:29 FAX 3673912

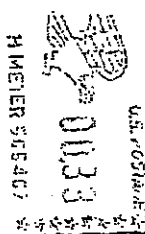
DOC TRNG ACAD

006

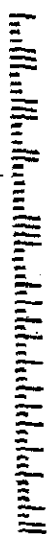
NAME C. T. Slay
NUMBER 4M-932d
301 MOREA ROAD
FRACKVILLE, PA 17932

Robert Bither, chief house ex.
Pa. Dept. of Cor.
P.O. Box 598
Camp Hill, PA 17001

PA 17001
PA 17001
PA 17001



17001X0598 99



05/29/01 14:30 FAX 3673912

DOC TRNG ACAD

008

SEP 21 '99 02:26PM SCI PITTSBURGH 412 880 0287

P.2/40 Z

FORM DC-141		PART I		COMMONWEALTH OF PENNSYLVANIA		A 27518	
<input checked="" type="checkbox"/> MISCONDUCT REPORT		<input type="checkbox"/> OTHER		DEPARTMENT OF CORRECTIONS			
DC Number AM-9320	Name Isley, Charles	Institution SCI-MAH	Incident Time 24 Hr. Base 1820hrs	Incident Date 8-27-99	Date of Report 8-27-99		
Quarters IB-16	Place of Incident IB cell #16						
OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)							OFFICE OF THE
DC Number	Name	I	W	DC Number	Name	I	W
					SEP 22 1999		
					CHIEF HEARING EXAMINER		
MISCONDUCT CHARGE OR OTHER ACTION							
CLASS 1. CATEGORY A I.N. threatening AN Employee or their family with bodily harm.							
STAFF MEMBER'S VERSION							
<p>ON the ABOVE time AND DATE, while conducting A safety AND security check on cell #16, Isley (AM-9320). Inmate Isley WAS ORDERED To Remove AN Air Freshener FROM his light fixture. AFTER given the ORDER, Inmate Isley JUMPED DOWN off of his BUNK AND IN A VERY AGGRESSIVE manner. APPROACHED this officer with closed fists AND stated "you PICKED the WRONG person to be f*cking with, get outta my cell before you get hurt". I, CO DROPIANSKI, then CLOSED Inmate Isley's cell door AND NOTIFIED the T-Block CONTROL Sergeant.</p>							
IMMEDIATE ACTION TAKEN AND REASON							
Confine in the Restricted Housing Unit pending further action by the Hearing Examiner							
PRE-HEARING CONFINEMENT							
IF YES							
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	TIME 2120	DATE 8/27/99	FORMS GIVEN TO INMATE <input checked="" type="checkbox"/> REQUEST FOR WITNESSES AND REPRESENTATION <input type="checkbox"/> INMATE'S VERSION				
REPORTING STAFF MEMBER SIGNATURE AND TITLE CO DROPIANSKI / [Signature]		ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY Capt. [Signature]			DATE AND TIME INMATE GIVEN COPY DATE 8-27-99 TIME 24 HOUR BASE 2142		
YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER DATE 8/29/99 TIME 0800		Misconduct Category <input checked="" type="checkbox"/> CLASS 1 <input type="checkbox"/> CLASS 2		Signature of Person Serving Notice CO Shift			
NOTICE TO INMATE							
<p>You are scheduled for a hearing on this allegation on the date and the time indicated or as soon thereafter as possible. You may remain silent, if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class I misconduct, any pre-release status you have will be revoked.</p>							

WHITE —DC-15

YELLOW—Inmate Cred

PINK—Staff Member Reporting Misconduct

GOLDENROD—Deputy Superintendents

05/29/01 14:30 FAX 3673912

DOC TRNG ACAD

009

SEP 21 '99 02:27PM SCI PITTSBURGH 412 880 0287

P.3/4

DC-141

PART II B

COMMONWEALTH OF PENNSYLVANIA

Rev. 6-84

DISCIPLINARY HEARING REPORT

DEPARTMENT OF CORRECTIONS

DC Number AM9320	Name ISLEY	Institution SCMBAH	Hearing Date 8-30-99	Hearing Time 12:10	No. from Part I A2758
INMATE PLEA	<input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Not Guilty	<input type="checkbox"/> No Plea <input type="checkbox"/> Other	Verdict	<input checked="" type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty	

CHARGES **ATTEMPT to threaten an employee - not guilty**

FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED

*Essentially states in attached memo that he was threatened by [officer].
The [officer] assaulted him & put him in the cell & charged him down.
[Officer] told the inmate: "you are the inmate's deal that he deal
[officer] to the [officer]" ... get out of my cell before you get hurt. "You there was
said + I feel it threat. Just him just off the threat of."*

*Sent. GO of DC
8-27-99
10-25-99*

☒ YES ☐ NO
☒ YES ☐ NO
☒ YES ☐ NO
☒ YES ☐ NO

The inmate has heard the decision and has been told the reason for it and what will happen.
The circumstances of the charge have been read and fully explained to the inmate.
The opportunity to have the inmate's version reported as part of the record was given.
The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.

SEE APPENDICES

NAME(S) OF HEARING EXAMINER/COMMITTEE
(TYPED OR PRINTED)**J. K. KANE**

Hearing Report and all appended information must be signed. Signature indicates finished report with appendices.

SIGNATURE OF HEARING EXAMINER/COORDINATOR

WHITE-DC-15

YELLOW-Inmate Cited

PINK-Staff Member Reporting Misconduct

GOLDENROD-Deputy Superintendent 57

05/29/01 14:31 FAX 3673912

DOC TRNG ACAD

010

SEP 21 '99 02:27PM SCI PITTSBURGH 412 880 0287

P.4/4

DC-T41

PART II C

COMMONWEALTH OF PENNSYLVANIA

Rev. 5-84 HEARING SUPPLEMENT
INMATE VERSION AND WITNESS STATEMENTS

DEPARTMENT OF CORRECTIONS

DC Number	Name	Institution	No. from PART I
AM-9320	ISLEY, CHARLES	SCI-MAH	A27518

INMATE'S VERSION Prisoner Isley pleads not guilty to the false charge based on the following reasons:

He was confined (prehearing confinement) in his cell at 1820 hrs and not 2120. This is corroborated by the Staff Member's Version. The Prehearing Confinement Section was written by someone else which is corroborated by the comparison of the handwriting.

He did not threaten anyone and is a Black man from Philly who has never spoken in the manner alleged.

He would never approach anyone with "closed fists" because he was a boxer and a boxing trainer and "closed fists" are in direct opposition to everything he was ever taught. He has fought concerning fightings and in direct conflict with anything he has ever done.

What actually occurred was that his cell was being searched and the guard ordered him to get rid of all his legal work save for a folder because allegedly it is a rule and a possible fire hazard. When it was explained that he had a trial next month and that he was not throwing any legal material away the guard stated that he was aware that prisoner Isley was going to trial soon and he became abusive, swearing threats and racial slurs. When prisoner Isley stated he wished to speak to the lieutenant the guard physically assaulted him by pushing him back into the cell forcing him to hit his head on the table and the guard slammed the door. Prisoner Isley then pushed the intercom button and informed the sgt. that he wished to speak to the lieutenant and of the assault but was told "so what". At 1900 hrs. prisoner Isley again requested to speak to the lieutenant via the intercom but was told by the sergeant that he was confined by the lieutenant's orders. Each time thereafter that the guard made his rounds he would stop at prisoner Isley's cell and threaten him with physical injury, and make racial remarks, and ask him when he next would see the parole board.

Prisoner Isley is in fear for his life, freedom, and well being from this feared racist vicious killer guard and wish to be separated from him to stop the guard from making good on his threats to "look up and kill prisoner Isley". He is in serious need of assistance and wishes to press charges as soon as possible. Please help him because he is terrified for his life.

WHITE - DC-15

YELLOW - Inmate Chd

PINK - Staff Member Reporting Misconduct

GOLDENROD - Deputy Superintendent

134

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES ISELEY,

Plaintiff

v.

W. CONWAY BUSHEY, et al.,

Defendants

:
:
:
:
:
:
:
:
:
:

**No. 1:00-CV-00577
(Judge Kane)**

UNSWORN DECLARATION KERMIT BREON

I, **KERMIT BREON**, hereby declare under the penalty of perjury, that the following is true and correct and based upon by personal knowledge.

1. I am currently employed by the Pennsylvania Department of Corrections ("DOC") as a Hearing Examiner. I have been employed as a hearing examiner for approximately eight years, conducting administrative factfinding hearings at SCI-Mahanoy, SCI-Coal Township, SCI-Huntingdon, SCI-Rockview and occasionally at SCI-Houtzdale. I have been employed by the DOC for 37 years.

2. As a hearing examiner, I conduct administrative fact-finding proceedings concerning misconduct reports issued to inmates. My duties and responsibilities are governed by the DOC Administrative Directive, 801. These duties include but are not limited to the review of the evidence presented at the misconduct hearing, the

determination of relevant witnesses, the interview of the witnesses, the determination of the inmates guilty or innocence, and the imposition of sanctions.

3. On December 14, 1998, Iseley was issued Misconduct No. A 110205 for refusing to obey and order and using obscene language. (See Exhibit "A" attached).

4. On December 16, 1998, I presided at the misconduct hearing of Charles Iseley regarding examiner Misconduct No. 110205. Prior to the hearing, Iseley's witnesses were not permitted as Iseley admitted that the staff witnesses he requested were not present at the time and place that the incident took place.

5. According to the misconduct report, Iseley went to Unit Manager's Chesney office and asked permission to go to the commissary, after the block's scheduled day. When Chesney refused the request, Iseley became argumentative with Chesney. Chesney then ordered Iseley to leave his office. Iseley refused to leave and began using obscene language. (Id.)

6. At the hearing, I considered Unit Manager Chesney's report as well as Iseley's version. After a review of the information, documentation and evidence presented, I believed Chesney's report that Iseley refused to obey an order and sanctioned Iseley to 30 days disciplinary custody. (Id.)

7. The finding of guilt and sanction imposed on Misconduct A110205 was not based upon Iseley's race, or for any discriminatory or retaliatory reasons. Rather, I found Iseley guilty based on the credibility evidence, testimony, reports presented.

JUN-07-01 THU 11:34
JUN-07-01 THU 09:01

ATTORNEY GENERAL

FAX NO. 717 112 4528

P. 05
P. 05/10

6/7/01
DATE


KERMIT BREON

EXHIBIT "A"

FORM DC-141
Rev. 6-84

PART I

COMMONWEALTH OF PENNSYLVANIA

A 110205

☒ MISCONDUCT REPORT ☐ OTHER DEPARTMENT OF CORRECTIONS

DC Number AM9320	Name Isley, Charles	Institution SCIMAH	Incident Time 24 Hr. Base 1420	Incident Date 12/14/98	Date of Report 12/14/98
Quarters JA1015	Place of Incident Unit Managers Office				

OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)

DC Number	Name	I	W	DC Number	Name	I

MISCONDUCT CHARGE OR OTHER ACTION

Class 1, b, 7 Refusing to Obey Law Order
Class 1, c, 22 Using Abusive or Obscene Language to an Employee

STAFF MEMBER'S VERSION

Inmate Isley, AM9320 Came to my office to ask permission to go to commissary because he had no money on his account on Friday. I told him no and he became argumentative. I ordered him to leave my office. He continued to argue with me and began using obscene language "You let these other mother fuckers go. Why the fuck can't I go?" I again ordered Mr. Isley to leave my office. He then looked at me and said "you're a real goofball." I ordered him a third time to leave my office. He finally complied.

IMMEDIATE ACTION TAKEN AND REASON

**Continue present status pending
Further Action by the Hearing
Examiner.**

PRE-HEARING CONFINEMENT

IF YES		
<input type="checkbox"/> YES	TIME	DATE
<input checked="" type="checkbox"/> NO	N/A	N/A

FORMS GIVEN TO INMATE
☒ REQUEST FOR WITNESSES AND REPRESENTATION☒ INMATE'S VERSION

REPORTING STAFF MEMBER SIGNATURE AND TITLE Thomas Casany U.M.	ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY COTV H. Byn	DATE AND TIME INMATE GIVEN COF DATE 12-14-98	TIME 24 HOUR B. 1730
--	---	---	--------------------------------

YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER
DATE/ TIME**12/16/98****0500**

Misconduct Category

☒ CLASS 1 ☐ CLASS 2

Signature of Person Serving Notice

C. S. Leachey LEACHEY

NOTICE TO INMATE

You are scheduled for a hearing on this allegation on the date and the time indicated or as soon thereafter as possible. You may remain silent, if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class I misconduct, any pre-release status you have will be revoked.

DC-141
Rev. 6-84
HEARING SUPPLEMENT
INMATE VERSION AND WITNESS STATEMENTS

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

DC Number Am 9320	Name Isley, Charles	Institution SCIMAH	No. from PART A110205
-----------------------------	-------------------------------	------------------------------	---------------------------------

INMATE'S VERSION

Prisoner Isley pleads not guilty to both charges. He never used any abusive or obscene language and was never ordered to leave the office (even if he were). There is no evidence to support the charge of refusing to obey an order since the false misconduct report clearly stated that he complied with the order).

On the date in question prisoner Isley asked Chesney to go to commissary since it was my day because he was just transferred to this prison and his money had only just arrived on Thursday. However, Chesney denied the request stating that the only ex-lit is not going on Friday is being on a visit. When Isley pointed out that he was aware of the fact Chesney had permitted other prisoners to go that day without any valid excuse, Chesney stated "So what. You like filing grievances. You like filing lawsuits. I guarantee you won't be in my block much longer. You're a troublemaker. You should never have been released from the RMA..." Prisoner Isley just left as Chesney continued talking and subsequently asked prison guard Leuchter and the 2-10 p.m. Sgt if he could go to the store. Isley asked Savasser, Chesney, Leuchter, and the Sgt in that order.

The testimony of the prison guards will reveal that at no time was Isley disrespectful or argumentative to any of them, request.

Prisoner Isley wishes for the two grievances ^{and} he filed against Chesney to be offered into evidence and in the record as well as the list of inmates who went to commissary on 9/12/04 from A. It is a fact that one prisoner (Riggins) got out of the hole on Saturday and was permitted to go to commissary as well as laundry workers whose pay was not on Friday.

It is perfectly clear from the facts that Chesney fabricated the false charges against Isley in retaliation for his filing grievances/lawsuits in order to have Isley thrown in the hole and denied parole (he is scheduled to see the board in February).

In essence there is no evidence to support the charge of refusing to obey an order because even if the false report were true it clearly states that Isley complied. There is no evidence to support the charge of using abusive or obscene language because the preponderance of the evidence clearly shows that Isley spoke to other prison guards - before and after Chesney - and made no such statements and was not argumentative and the evidence of retaliation against Isley from Chesney clearly shows, from the grievances and request, that the charges are utterly false. Lastly, Isley is a black man from Philly. He would have said "nuff-nuff gooball" and, in any event, the alleged statement is neither abusive or obscene.

DC-141

PART II A

COMMONWEALTH OF PENNSYLVANIA

Rev. 6-84

INMATE REQUEST FOR
REPRESENTATION AND WITNESSES

DEPARTMENT OF CORRECTIONS

DC Number AM 9320	Name Isley, Charles	Institution SCI MAH	Date 12-14-98	Number as on P A110205
-----------------------------	-------------------------------	-------------------------------	-------------------------	----------------------------------

You have been charged with a misconduct. You may request assistance and/or witnesses to appear at your hearing by completing the section(s) below.

In order to have assistance or witnesses at your hearing, you must complete this form and present all copies to one of your housing officers no later than 9:00 a.m. the first working day after you receive notice of the misconduct.

Assistance: ☐ I do not request assistance
☐ I request assistance by _____
(The person requested must be willing to assist you)

Witnesses: You may request witnesses in accord with DC-ADM 801. State the relevance and importance of the testimony the witness will give.

1. Name of Witness: **2-10 Sgt on JA on 981214**
No. _____ If Inmate _____
Quarters _____
Why is this person's testimony relevant and important?
Involved in incident alleged

DO NOT WRITE IN THIS SECTION
For Use by Hearing Examiner

Witness permitted? _____ If not, why not? _____

2. Name of Witness: **C.O. Sausser**
No. _____ If Inmate _____
Quarters _____
Why is this person's testimony relevant and important?
Involved in incident alleged

Witness permitted? _____ If not, why not? _____

3. Name of Witness: **C.O. Leachey**
No. _____ If Inmate _____
Quarters _____
Why is this person's testimony relevant and important?
Involved in incident alleged

Witness permitted? _____ If not, why not? _____

C. Isley
Inmate's Signature

This section to be completed by Housing Officer only

Received completed form **0755** hours **12/15/98**
Time Date

Abraham Sausser
Housing Officer's Signature

R. Brien
Hearing Examiner's Signature

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES ISELEY,

Plaintiff

v.

W. CONWAY BUSHEY, et al.,

Defendants

:
:
:
:
:
:
:
:
:
:

**No. 3:00-CV-00577
(Judge Kane)**

**UNSWORN DECLARATION
OF THOMAS CHESNEY**

I, **THOMAS CHESNEY**, hereby declare under the penalty of perjury that the following is true and correct based upon my personal knowledge:

1. I am currently employed by the Pennsylvania Department of Corrections (“DOC”), as a Unit Manager at the State Correctional Institution at Coal Township, (“SCI-Coal Township”), Pennsylvania. At all times relevant to the complaint, I was employed at SCI-Mahanoy as a Unit Manager.

2. My duties and responsibilities as the Unit Manager at SCI-Mahanoy include, but are not limited to the supervision of the operation of the housing unit. This includes overseeing the care, custody and control of the inmates in the housing unit, supervision

of the corrections officers, counselors and clerks assigned to the unit. In addition, I conduct initial interviews of inmates upon their arrival to the Unit.

3. In December, 1998, inmate Charles Iseley was assigned to my Unit, in cell J/B 105. At the initial reception interview Iseley states that he did not want a block job because he did not want to work for that little money. While on J block, Iseley did not have a job. (See Exhibit "A")

4. On December 13, 1998, Iseley filed Grievance No. MAH-0457-98 alleging that he was harassed, threatened and fired from his job by corrections officer McKreth. (Id.)

5. Carol Dotter, the grievance coordinator at SCI- Mahanoy reviewed the grievance contacted me and I informed her that Iseley did not have a job as a block worker. (Id.)

6. On December 14, 1998, Iseley came to my office and asked permission to go to the commissary, after the block's scheduled commissary. When I refused the request, Iseley became argumentative. I then ordered Iseley to leave the office. Iseley refused and began to use obscene language. Finally, after the third order, Iseley left the office. (See Exhibit "B" attached.)

7. I then issued Iseley Misconduct No. A 110205 for refusing to obey and order and using obscene language. (Id.)

JUN-07-2001 THU 03:59 PM

JUN-08-01 WED 16:47

ATTORNEY GENERAL

FAX NO.

FAX NO. 717 772 4526

P. 02

P. 04/08

6/7/01
DATE


 U.M.
THOMAS CHESNEY

EXHIBIT "A"

C-804
ART 1COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO.

MAH-0457-98

GRIEVANCE COORDINATOR

Dotter

INSTITUTION

Mahanoy

DATE

981213

FROM: (Commitment Name & Number)

C. Isley AM-9320

INMATE'S SIGNATURE

C. Isley

WORK ASSIGNMENT

Nil

QUARTERS ASSIGNMENT

JA-15

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Brief, clear statement of grievance:

On 981209 I was harassed and threatened and fired from my job (the first day) by prison guard Mackrety who opened my cell door after 9:10 p.m. count and did as already noted above. I notified the unit manager, Chesney, but he intentionally lied stating that I never had a job (I had worked that afternoon) and that there was no harassment/threats. It is clear that he lied because I never informed him of the name of the guard and consequently for the guard to know what was going on when he spoke to him reveals the utter veracity of my words. Chesney is covering up for the prison guard in retaliation for my not being gullible and refusing to converse on any social level with him. He has already stated to other prisoners that he hates me. Personal interview requested.

B. Actions taken and staff you have contacted before submitting this grievance:

Actions taken: contacted staff

Staff contacted: unit mgr.

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Carol Dotter

Signature of Grievance Coordinator

12/14/98

Date

DC-804
PART IICOMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO.

MAH-0457-98

TO: (Name & DC NO.)	INSTITUTION	QUARTERS	GRIEVANCE DATE
Charles Isley, AM-9320	Mahanoy	J/A 15	12/13/98

The following is a summary of my findings regarding your grievance:

I spoke to Mr. Chesney and Officer Mackreth about this incident. Their reports of what happened are quite different than yours.

Officer Mackreth states he had to tell you twice to lock up. You became argumentative and used abusive language. He checked the roster for Block Workers and found your name was not on it. It appears the officer was trying to help you—not harass you.

You told me when we met on 12/17/98, that the Block Clerk said you had a job. However, he denied that statement when questioned.

Your Unit Manager reports you didn't want a block job. Instead of issuing you a misconduct for Refusing to Work, he allowed you the opportunity to seek employment elsewhere. Because he never hired you, no one could fire you.

You claim Mr. Chesney lied to cover up for the officer?? It's the officer's job to ensure all inmates are locked up after 9:00 p.m. Also, the officer gave you the benefit of the doubt and checked the roster and also checked with the Block Clerk.

I find your accusations to be false and your grievance without merit.

CMD:dy

cc: Deputy Klem ✓
Mr. Chesney ✓
CO Mackreth ✓
DC 15 ✓
file ✓

Refer to DC-ADM 804, Section VIII,
for instructions on grievance
system appeal procedures.

SIGNATURE OF GRIEVANCE COORDINATOR

DATE

Carol M. Lotter

12/18/98

DC-804

PART II

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001

OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO.

MAH-0457-98

TO: (Name & DC NO.)
Isley, Charles AM9320

INSTITUTION
SCI-Mahanoy

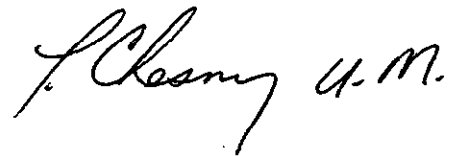
QUARTERS
J/B 1015

GRIEVANCE DATE
12/13/98

The following is a summary of my findings regarding your grievance:

At our initial interview Mr. Isley stated that he did not want a block job because he didn't want to work for that little money. He was never given a block job, therefore was never fired. Why Mr Isley worked that afternoon in question is unknown to me. I specifically informed him during our initial interview that if he refused a job, I could remove him from allowance pay, but I chose not to do so. I wanted to allow him the opportunity to seek a job elsewhere. The rest of the accusations are false and without merit.

TC/mb



cc: Deputy Klem
Unit Manager: Chesney

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES ISELEY,

Plaintiff

v.

W. CONWAY BUSHEY, et al.,

Defendants

:
:
:
:
:
:
:
:
:
:

**No. 1:00-CV-00577
(Judge Kane)**

UNSWORN DECLARATION OF CAROL DOTTER

I, **Carol Dotter**, hereby declare under the penalty of perjury that the following statements are true and correct and based upon my personal knowledge.

1. I am currently employed by the Pennsylvania Department of Corrections ("DOC") as the Assistant to the Superintendent at the State Correctional Institution at Mahanoy ("SCI-Mahanoy").

2. I have been employed in the capacity of Assistant to the Superintendent at SCI-Mahanoy since March 1993. In that capacity, I am familiar with the standard operating policies and procedures followed at SCI-Mahanoy and the DOC. I am also familiar with and have access to all records maintained by the institution in the course of regularly conducted business. As assistant to the Superintendent, I serve as the Grievance Coordinator at SCI-Mahanoy.

3. As Grievance Coordinator, I am responsible for maintaining records of all grievances filed by inmates at SCI-Mahanoy. In accordance with DOC-Administrative Directive 804 ("DC-ADM 804), the Consolidated Grievance System outlines the policies and procedures to be followed with respect to inmate grievances. This policy is found in the Inmate Handbook issued to all inmates.

4. Inmate grievances are written on Official Inmate Grievance forms, which are available to all inmates. Upon receipt of an Official Grievance, I review the grievance in order to make an appropriate assignment to staff for written response. I also assign a number to the grievance.

5. As outlined by DC-ADM 804, the grievance officer then responds in writing to the inmate within 10 working days informing him of the action taken concerning the grievance. In addition copies are placed in the inmate's institutional file.

6. Pursuant to DC-ADM 804, inmates may appeal the response of the grievance to the Superintendent and then to the Department of Corrections. At the time of the allegations in Iseley's complaint, a final appeal of a grievance could be made to the Chief Hearing Examiner, Robert Bitner.

7. On December 13, 1998, Iseley filed Grievance No. MAH-0457-98 alleging that he was harassed, threatened and fired from his job by corrections officer MacKreth. (See Exhibit "A" attached)

8. I reviewed the grievance and contacted Unit Manager Chesney and Officer Mackreth to verify the contents of Iseley's grievance. Chesney informed me Iseley was never given a block job and therefore was never fired. Officer Mackreth informed me that he had to tell Iseley twice to lock up and that he checked the roster for Block Workers and that Iseley's name was not on the roster. Based upon the information provided to me by Chesney and Mackreth, I found Iseley's grievance to be false and without merit. (Id.)

9. On December 17, 1998, Iseley submitted inmate grievance No. MAH-0462-98, alleging that his cell lights remain on at night in violation of his constitutional rights. I responded to Iseley on the same date, explaining to him that the Low intensity night lights are necessary for security in the L-5 unit. (Id.) (See Exhibit "B" attached)

10. On December 26, 1998, Iseley filed Grievance No. MAH 0479-98, alleging he is not permitted to receive the alternative protein menu when pork is served. I forwarded the Grievance to the Food Services Manager, Robert Yarnell for response. On January 4, 1999, the Food Service Manager, Robert Yarnell advised

Iseley that he would be allowed to receive the pork alternative if he signed up for the program. (See Exhibit "C" attached)

11. As Grievance Coordinator, I was aware of and received a copy of Superintendent Dragovich's January, 1999 memorandum placing Iseley on grievance restriction. (See Exhibit "D" attached)

12. On January 3, 1999, Iseley filed Grievance No. 0002-99 alleging that Dennsion misrepresented himself to Iseley as a member of the Board of Probation and Parole and that James Unell, the inmate program manager did not explain matters to him satisfactorily. (See Exhibit "E" attached)

13. I contacted James Unell, Inmate Program Manager to investigate this grievance. On January 14, 1999, Unell responded to Iseley informing him that his consent was withdrawn per his request on December 14, 1998, and that the original document was returned to him, and that all the elements of his grievance has been fully addressed. (Id.)

14. On January 27, 1999, Iseley filed grievance No. MAH-0035-99, alleging that upon his release from the Restricted Housing Unit, he discovered items of his personal property missing, including twelve publications/magazines. (See Exhibit "F" attached.)

15. I assigned Lt. Mahally to investigate the allegations contained in this grievance. On February 10, 1999, Lt. Mahally responded to Iseley's grievance informing him that his personal property inventory sheet that accompanied him to SCI-Mahanoy reflected that he had seven magazines/publications. Mahally further explained to Iseley that following his confinement to the RHU his property was packed and secured in the property room. (Id.)

16. In March of 1999, Iseley filed grievance No. MAH-0076-99 alleging that the medical department wrongfully charged him for sick call regarding a chronic condition, that he was being charged for glasses that he did not want and that the medical department refused to refer him for corneal implants. (See Exhibit "G" attached)

17. In his response to Iseley's grievance appeal, Superintendent Dragovich informed Iseley that he did not order photo gray lenses or sign a cash slip for the photo grey lenses and that treatment of his visual imperfection would not be corrected through a cosmetic procedure. Dragovich also explains that at the time, there was no treatment protocol for Hepatitis "C", and that it was being reviewed by the Bureau of Health Services. Dragovich denied Iseley's appeal of the grievance. (Id.)

18. In March of 1999, Iseley ordered a radio which he then wished to exchange and then receive a refund. Iseley refused to send out the cassette player to

the vender for the refund; rather he elected to file a grievance. (See Exhibit "H" attached)

19. On May 1, 1999, Iseley filed a Grievance No. MAH-0014-99 concerning the confiscation of his guitar bag. It was explained to Iseley that the bag was confiscated for security reasons. (See Exhibit "I" attached)

SCI MAHANAY SUPT OFF
JUN-11-01 MON 13:11

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ATTORNEY GENERAL

06/14/01 08:53 ☐ :02/02 NO:736
FAX NO. 717 772 4526 P. 12/12

6/15/01
DATE

Carol Dotter
CAROL DOTTER
Assistant to the Superintendent
SCI-Mahanoy

804

F.1

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

CIAL INMATE GRIEVANCE

GRIEVANCE NO.

MAH-0457-98

GRIEVANCE COORDINATOR

Dotter

INSTITUTION

Mahanoy

DATE

981213

A: (Commitment Name & Number)

C. Isley AM-9320

INMATE'S SIGNATURE

C. Isley

K ASSIGNMENT

Nil

QUARTERS ASSIGNMENT

JA-15

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

Brief, clear statement of grievance:

On 981209 I was harassed and threatened and fired from my job (the first day) by prison guard Mackrety who opened my cell door after 9:10 p.m. count and did as already noted above. I notified the unit manager, Chesney, but he intentionally lied stating that I never had a job (I had worked that afternoon) and that there was no harassment/threats. It is clear that he lied because I never informed him of the name of the guard and consequently for the guard to know what was going on when he spoke to him reveals the utter veracity of my words. Chesney is covering up for the prison guard in retaliation for my not being gullible and refusing to converse on any social level with him. He has already stated to other prisoners that he hates me. Personal interview requested.

Actions taken and staff you have contacted before submitting this grievance:

Actions taken: contacted staff

Staff contacted: unit mgr.

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Carol Dotter

Signature of Grievance Coordinator

12/14/98

Date

DC-804
PART II

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001

OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO. MAH-0457-98

TO: (Name & DC NO.)	INSTITUTION	QUARTERS	GRIEVANCE DATE
Charles Isley, AM-9320	Mahanoy	J/A 15	12/13/98

The following is a summary of my findings regarding your grievance:

I spoke to Mr. Chesney and Officer Mackreth about this incident. Their reports of what happened are quite different than yours.

Officer Mackreth states he had to tell you twice to lock up. You became argumentative and used abusive language. He checked the roster for Block Workers and found your name was not on it. It appears the officer was trying to help you—not harass you.

You told me when we met on 12/17/98, that the Block Clerk said you had a job. However, he denied that statement when questioned.

Your Unit Manager reports you didn't want a block job. Instead of issuing you a misconduct for Refusing to Work, he allowed you the opportunity to seek employment elsewhere. Because he never hired you, no one could fire you.

You claim Mr. Chesney lied to cover up for the officer?? It's the officer's job to ensure all inmates are locked up after 9:00 p.m. Also, the officer gave you the benefit of the doubt and checked the roster and also checked with the Block Clerk.

I find your accusations to be false and your grievance without merit.

CMD:dy

cc: Deputy Klem ✓
Mr. Chesney ✓
CO Mackreth ✓
DC 15 ✓
file ✓

Refer to DC-ADM 804, Section VIII,
for instructions on grievance
system appeal procedures.

SIGNATURE OF GRIEVANCE COORDINATOR

DATE

Carol M. Stotter

12/18/98

-804

IT II

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001

OFFICIAL INMATE GRIEVANCE
OFFICIAL REVIEW RESPONSE

GRIEVANCE NO.

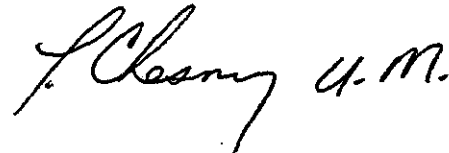
MAH-0457-98

IN: (Name & DC NO.) Isley, Charles AM9320	INSTITUTION SCI-Mahanoy	QUARTERS J/B 1015	GRIEVANCE DATE 12/13/98
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The following is a summary of my findings regarding your grievance:

At our initial interview Mr. Isley stated that he did not want a block job because he didn't want to work for that little money. He was never given a block job, therefore was never fired. Why Mr Isley worked that afternoon in question is unknown to me. I specifically informed him during our initial interview that if he refused a job, I could remove him from allowance pay, but I chose not to do so. I wanted to allow him the opportunity to seek a job elsewhere. The rest of the accusations are false and without merit.

TC/mb



cc: Deputy Klem
Unit Manager: Chesney

EXHIBIT "B"

04
1

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

IAL INMATE GRIEVANCE

GRIEVANCE NO.

MAH-0462-98

GRIEVANCE COORDINATOR

Dotter

INSTITUTION

Mahanoy

DATE

98/2/7

(Commitment Name & Number)

C. Isley AM-9320

INMATE'S SIGNATURE

C. Isley

ASSIGNMENT

Nil

QUARTERS ASSIGNMENT

RHU C-9

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

Brief, clear statement of grievance:

I wish to know why my cell light is remains on all evening and all night and half the morning. According to staff, it is policy. However, having the cell light on all night is a violation of my constitutional rights as established by the federal courts. It is a form of sleep deprivation. No other prison has such a policy (at one time there was - but it was ceased by the courts). Consequently, I wish for this policy to be eradicated forthwith.

Actions taken and staff you have contacted before submitting this grievance:

Actions taken: Contacted staff

Staff contacted: RHU staff

Your grievance has been received and will be processed in accordance with DC-ADM 804.

C. Dotter
Signature of Grievance Coordinator

12/18/98

DC-804
ART II

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001

OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO.

MAH-0462-98

TO: (Name & DC NO.)	INSTITUTION	QUARTERS	GRIEVANCE DATE
Charles Isley, AM-9320	Mahanoy	RHU C-9	12/17/98

The following is a summary of my findings regarding your grievance:

The low-intensity night lights are necessary for security in the L-5 unit. Therefore, the procedures of putting the lights on from dusk until dawn will continue.

CMD:dy

cc: Deputy Klem
Deputy Novotney
Lt. Fryzel
DC 15
file

EXHIBIT "C"

DC-804

RT 1

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

FICIAL INMATE GRIEVANCE

GRIEVANCE NO.

MAH-0479-98

GRIEVANCE COORDINATOR

INSTITUTION

DATE

COM: (Commitment Name & Number)

INMATE'S SIGNATURE

WORK ASSIGNMENT

QUARTERS ASSIGNMENT

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

Brief, clear statement of grievance:

I do not eat pork and wish to know why I am not permitted to receive the alternate when pork is served.

1. Actions taken and staff you have contacted before submitting this grievance:

Actions taken: Contacted staff.

Staff contacted: Kotter, Yarnell (illogical response)

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Signature of Grievance Coordinator

Date

DC-804
PART IICOMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO.

MAH 0479-98

TO: (Name & DC NO.) Charles Isley AM9320	INSTITUTION SCI Mahanoy	QUARTERS RHU	GRIEVANCE DATE 12/26/98
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The following is a summary of my findings regarding your grievance:

Mr. Isley, you will be allowed to receive the protein alternative, if you sign up for the program. If you were medically approved, you would receive the alternate protein for both the dinner and supper meals.

cc: Deputy Klem
Grievance Coordinator
Records
File

Refer to DC-ADM 804, Section VIII,
for instructions on grievance
system appeal procedures.

SIGNATURE OF GRIEVANCE OFFICER

DATE

C. Robert Yarnell
Food Service Manager

1/4/99

EXHIBIT "D"

COMMONWEALTH OF PENNSYLVANIA
Department of Corrections
SCI Mahanoy
(717) 773-2158
January 8, 1999

SUBJECT: Appeal to Superintendent
Grievance #MAH-0480-98

TO: Charles Isley
AM-9320, RHU Unit

FROM: *Martin L. Dragovich*
Martin L. Dragovich
Superintendent
SCI Mahanoy

Receipt of your appeal to Superintendent of grievance #MAH-0480-98 is acknowledged. In preparing this response, I have reviewed your original grievance, the Grievance Officer's response and your appeal to this office.

The institution reserves the right to deny you a razor if there is indication that you could use the razor as a weapon or could use it to harm yourself. This decision is based upon the inmate's prior history and inmates placed in the RHU are screened to determine whether or not a razor would pose a threat in their possession. As Lt. Fryzel indicated, it took a while to make this determination based on your rather extensive misconduct history but clearance was ultimately given. Use of a razor while in the RHU requires that you sign up and if you do not, none will be issued.

Based upon the foregoing, your grievance is denied.

Please also note that no action is being taken on grievance #MAH-0479-98 as you may file only one appeal at a time on a request slip. Furthermore, I am putting you on notice that I am placing you on a grievance restriction. It is evident to me that you are using the grievance system as a response of first resort in that you have filed seven grievances in only five weeks. You are not making a good faith use of the system nor are you making a legitimate effort to try to resolve problems before using the grievance system. Accordingly, I am limiting you to filing one grievance per month on legitimate issues that are directly related to your individual health and/or safety. This is not an imperative, meaning that you must file one a month and you will have to demonstrate that you made a legitimate effort under Section B of the grievance to try to resolve the problem before filing your grievance. The Grievance Coordinator, Mrs. Dotter will determine if you have exhausted all remedies and whether or not the grievance issue is legitimate as opposed to frivolous. The grievance restriction will be reviewed in July, 1999 to determine if it has served its intended purpose.

MLD:pld

Cc: Deputy Novotney
Deputy Klem
Mrs. Dotter
Mr. Chesney
Lt. Fryzel
DC-15
file

EXHIBIT "E"

804
IT 1COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598SCI MAHANAY
RECEIVED

JAN 06 1999

INMATE PROGRAM MANAGER

GRIEVANCE NO.

MAH-0002-99

OFFICIAL INMATE GRIEVANCE

GRIEVANCE COORDINATOR <i>Dotter</i>	INSTITUTION <i>Mahanoy</i>	DATE <i>990103</i>
INMATE (Commitment Name & Number) <i>C. Isley AM-9320</i>	INMATE'S SIGNATURE <i>C. Isley</i>	
WORK ASSIGNMENT <i>Nil</i>	QUARTERS ASSIGNMENT <i>RTU C-9</i>	

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

Brief, clear statement of grievance:

A person by the name of Denaizon misrepresented himself to me in order to trick me into signing the Mental Health Informed Consent Document. He stated that I had to sign it to be evaluated for parole pursuant to the "Footin'" litigation. I have since ascertained that he is not employed by the parole board and that I was not required to sign anything for parole evaluation. Consequently, I want the original of the document and any and all copies as I do not give permission for anything and my signature is invalid as it was attained illegally.

Actions taken and staff you have contacted before submitting this grievance:

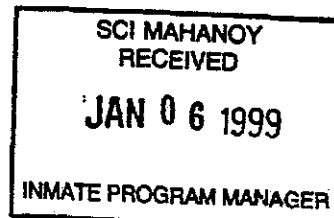
Actions taken: Contacted staff
Staff contacted: Brown, Yoonon

If your grievance has been received and will be processed in accordance with DC-ADM 804.

Signature of Grievance Coordinator

Date

1/4/99

DC-804
PART IICOMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO. MAH-0002-99

TO: (Name & DC NO.) ISLEY, CHARLES AM-9320	INSTITUTION SCI-MAHANAY	QUARTERS RHU	GRIEVANCE DATE 1/06/99
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The following is a summary of my findings regarding your grievance:

This is in response to Grievance No. MAH-0002-99. I note that I spoke with you at length regarding this grievance in our meeting in the RHU on 1/14/99. I note the following: You acknowledged during our meeting that Mr. Dennison did not introduce himself as a Parole Board member. It was your assumption that he worked for the PBPP. You are now well aware that he is a Psychological Services Associate and a member of the Psychology Department. It is noted that Mr. Dennison presented a mental health informed consent document to you on 12/17/98. At that time you decided to sign the form after it was reviewed. On 12/24/98 you wrote a request to Mr. Youron, Chief Psychologist requesting that your consent be revoked and that the original document be returned to you. In response to your request slip, dated 12/24/98, Mr. Youron wrote back to you and informed you that your consent was, in fact, revoked. You acknowledged to me on 1/14/99 that you did receive the original document. Also, I note that a DC-14 entry was made indicating that you had revoked your consent. Be informed then, that at this point in time, we do not have your consent regarding the mental health informed consent policy/document.

In accordance with the policy 7.3.1, I cautioned you that recipients of the reports (e.g.: staffing committees and the Parole Board) "may draw negative inferences" from your refusal. The psychology staff also gave you such counsel. I also explained to you the significance of your refusal and the impact of it. I remind you also that you may decide to give your consent at a later point in time. You stated that you fully understood our conversation. You also stated that you still wish to refuse to sign the mental health informed consent document.

In that all of the elements of your grievance have been fully addressed, I recommend no further action regarding this grievance.

rh/

cc: Deputy Klem
Mr. Youron
Mr. Dennison
file

Refer to DC-ADM 804, Section VIII,
for instructions on grievance
system appeal procedures.

SIGNATURE OF GRIEVANCE Officer

James D. Smith

DATE

1/14/99

EXHIBIT "F"

C-804
IRT 1COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO.

MAH-0035-99

GRIEVANCE COORDINATOR <i>Dotter</i>	INSTITUTION <i>Mahansy</i>	DATE <i>990127</i>
ROOM: (Commitment Name & Number) <i>C. Isley AM-9320</i>	INMATE'S SIGNATURE <i>C. Isley</i>	
WORK ASSIGNMENT <i>M.P.</i>	QUARTERS ASSIGNMENT <i>IB-16</i>	

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Brief, clear statement of grievance:

On 980114 I was released from the and some of my property was missing. I informed the sergeant who instructed me to write the property room, which I did - twice. The missing property consists of several brown sock and white boxer shorts (I had more than the limit because of the items given to me upon my arrival by clothing exchange) and all but save for two pornographic books. I received no confiscation slips and, according to other prisoners, it is common practice for pornographic books to be taken. However, these books were exhibits for my lawsuit in the Western District Federal Court and therefore I want them returned immediately or to have confiscation slips. They were included in my inventory sheets (most of them) from Rockview prison. I have grievances to verify receipt of the others at Ashview. Else, I wish to be reimbursed.

B. Actions taken and staff you have contacted before submitting this grievance:

Actions taken: Contacted staff.

Staff contacted: Property Room Sgt., Property Room staff

Your grievance has been received and will be processed in accordance with DC-ADM 804.


Signature of Grievance Coordinator


Date

2-804
RT II

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001

OFFICIAL INMATE GRIEVANCE
FINAL REVIEW RESPONSE

GRIEVANCE NO.

MAH-0035-99

DO: (Name & DC NO.)	INSTITUTION	QUARTERS	GRIEVANCE DATE
Isley AM-9320	SCI-Mahanoy	I/B 16	1/28/99

The following is a summary of my findings regarding your grievance:

This is in response to your grievance concerning your property. The personal property inventory that accompanied you when you arrived at SCI-Mahanoy reflects that you had seven magazines.

Following your confinement to the RHU on 12/16/98, all of your property that was present in your cell was packed and removed by Sgt. Birosak. Your property was then secured in the Property Room until it was inventoried by Officer Peek. The Personal Property Inventory dated 12/17/98 does not show that any magazines were present with your property at that time. You received your copy of this inventory with your basic RHU issue.

Not only did the Property Room not receive any requests from you concerning any missing items while you were in the RHU, but you also failed to mention anything concerning these items when you were in the Property Room on 12/22/98 to pick up some legal material.

Based on the information above, I conclude that there were no magazines present with your property when it was packed and removed from your cell. Unless you can provide me with proof that these items were present with your property at the time of your confinement, I will take no further action on this matter.

In addition, excessive state-issued items do not require a Confiscation Slip as long as they are not related to a misconduct.

LPM:js

cc: Deputy Novotney
Deputy Klem
~~Mrs. Dotter~~
Records DC-15
Sgt. Birosak
COI Peek
file

EXHIBIT "G"

DC-804
PART 1COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO.

MAH-007699

TO: GRIEVANCE COORDINATOR <i>Dotter</i>	INSTITUTION <i>Mahanoy</i>	DATE <i>990304</i>
FROM: (Commitment Name & Number) <i>C. Isley AM-4320</i>	INMATE'S SIGNATURE <i>C. Isley</i>	
WORK ASSIGNMENT <i>M-1</i>	QUARTERS ASSIGNMENT <i>IK-16</i>	

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Brief, clear statement of grievance:

I contacted Cerullo & Diaz concerning the medical department's charging me, wrongfully, for sick call for a chronic condition; Being charged for glasses I do not want because they are not phakic; The medical department's allegation that there is no treatment for hepatitis C; The medical department's refusal to refer me to an ophthalmologist concerning my visual imperfection in my left eye; the medical department's refusal to refer me to an ophthalmologist for corneal implants or photorefractive keratectomy; The medical department's refusal for orthodontal referrals/treatment. I wish to know why I am being denied adequate medical care.

B. Actions taken and staff you have contacted before submitting this grievance:

Actions taken: Contacted staff
Staff contacted: Cerullo, Diaz

Your grievance has been received and will be processed in accordance with DC-ADM 804.

C. Dotter
Signature of Grievance Coordinator

3/5/99
Date

DC-804
PART IICOMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO.

MAH 0076-99

TO: (Name & DC NO.) Charles Isley AM - 9320	INSTITUTION SCI Mahanoy	QUARTERS I/B	GRIEVANCE DATE March 04, 1999
--	----------------------------	-----------------	----------------------------------

The following is a summary of my findings regarding your grievance:

Mr. Isley:

You did not sign a cash slip for photo gray lenses therefore they were not ordered. You cannot change your order after the fact. (Response to Inmate Request 2/18/99 twice).

Regarding ophthalmologist and orthodontist see prior responses to Inmate Request dated 1/4/99, 2/3/99, 2/16/99, 2/26/99. Our responses do not change on four occasions why would they change now? I have no inmate request in my file regarding improper charges. Send an Inmate Request with the dates of said charges and someone will investigate.

cc: Deputy Klem
Deputy Novotney
Carol Dotter
Inmate Records
File

Refer to DC-ADM 804, Section VIII,
for instructions on grievance
system appeal procedures.

SIGNATURE OF GRIEVANCE COORDINATOR




DATE

3/18/99

COMMONWEALTH OF PENNSYLVANIA
Department of Corrections
SCI Mahanoy
(717) 773-2158
March 24, 1999

SUBJECT: Appeal to Superintendent
Grievance #MAH-0076-99

TO: Charles Eisley
AM-9320, I/B Unit

FROM: 
Martin L. Dragovich
Superintendent
SCI Mahanoy

Receipt of your appeal to Superintendent of grievance #MAH-0076-99 is acknowledged. In preparing this response, I have reviewed your original grievance, the Grievance Officer's response and your appeal to this office.

It appears that at least six responses have been prepared for request slips you sent to Medical regarding various different issues. As Mrs. Cerullo has noted, you cannot change an order after the fact with regard to glasses. You did not sign a cash slip for photogray lenses, therefore, none was ordered. You also claim that improper charges were filed against your account for sick call because you claim a chronic condition. Mrs. Cerullo's response reflects that she has no inmate requests on file regarding improper charges and instructed you to send her a request with the dates of said charges and it would be investigated. It is up to you to follow up in this regard. As for treatment of Hepatitis C, there is currently no treatment protocol for the treatment of this disease. This is currently being looked at by the Bureau of Health Care Services for the Department of Corrections and when one is available, it will be followed. In the meantime, experimental treatments are not permitted and only those treatments approved by the vendor will be permitted provided they are not contraindicated by other existing conditions. Treatment of your "visual imperfection" would not be corrected through corneal implants or photorefractive keratotomy, as this is done for cosmetic reasons and could be corrected through corrective lenses. Orthodontal referrals and treatment are only made if indicated by the dentist and again such referrals will be made only if medically indicated and not for cosmetic reasons.

It is apparent that you used the grievance system to argue a laundry list of complaints which apparently have already been addressed with you and which you do not wish to accept. Medical treatment is provided and referrals are made based upon competent medical judgment. Costly cosmetic procedures are not performed when less costly alternatives are available. An example, as noted earlier is corrective lenses as opposed to radial keratotomy.

Based upon the foregoing, your appeal is denied.

MLD:pld

Cc: Deputy Novotney
Deputy Klem
~~Mrs. Potter~~
Mrs. Cerullo
DC-15
file

EXHIBIT "H"

DC-804
RT 1COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO.

GRIEVANCE COORDINATOR <i>Dotter</i>	INSTITUTION <i>Mahanoy</i>	DATE <i>990323</i>
COM: (Commitment Name & Number) <i>C. Isley AM-9320</i>	INMATE'S SIGNATURE <i>C. Isley</i>	
WORK ASSIGNMENT <i>Nil</i>	QUARTERS ASSIGNMENT <i>IB-16</i>	

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

Brief, clear statement of grievance:

On 990319 Bircsak ordered me to send out a walkman cassette player to have my money refunded. However, he had previously ordered me to send out a walkman radio/cassette player to receive a refund and I complied. The second walkman should not have been sent because I wanted my money back. However, I have yet to receive my money. I do not know why Bircsak lied to me and ordered me to send the walkmans to a store for a refund. I ordered the original walkman from commissary - not any other store. Consequently, I want my money returned and the money I spent for postage which you forced me to spend.

B. Actions taken and staff you have contacted before submitting this grievance:

Actions taken: Contacted staff
Staff contacted: Bircsak

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Signature of Grievance Coordinator

Date

SCI MAHANAY

ELECTRONICS ORDER FORM

V - #13CCE-1

\$175.30

Color Television, 181 channel capability, earphone jack, annel cable compatible, color receiver, closed caption, t decoder, front panel control of all functions, complete screen display, high resolution, memory backup, 1 warranty on parts and labor.

A #E13332BC

\$184.70

Color Television, 181 channel tuning capability, earphone jack, auto programming, closed caption capability, picture reset, Con picture tube, on screen time and channel display, multi-iguage on-screen display, sleep timer, on screen menu system, erage wattage within 46 watts.

V #KT1210A3

\$84.59

Black and White Television with earphone jack, direct wired, approved, UL listed.

A #RP1882

\$35.62

Digital AM/FM stereo tuner with station seek up/down, 20 station eset (10 AM/10 FM), LCD display, search-up for preset stations, pushbutton cassette operation, auto reverse for continuous play, iss boost, lightweight plastic stereo headphones. NO CLOCK

WA HS-GS173

\$27.83

eadphones stereo cassette with multi sound processor, classic/ ap/rock/jazz, battery life indicator, tape selector, uses 2 "AA" batteries.

CA #RP1812

\$18.91

M/FM Personal Stereo cassette player, AM/FM stereo tuner, -pushbutton cassette operation, automatic end of tape shutoff, ass boost, lightweight plastic stereo headphones, operates on 2 "AA" batteries not included.

G.E. Super Radio III #2887

\$48.25

High performance AM/FM portable radio, separate bass and treble tone controls, dual speaker system (6-1/2" high sensitivity speaker plus 2" tweeter), auto frequency control, headphone jack, wide band tuning.

GPX #C477

\$25.60

AM/FM stereo cassette player, auto reverse cassette deck, play/stop/fast forward/rewind cassette functions, stereo headphone jack, full range speakers, AC/DC, AC cord included, uses 4 "C" batteries (not included). NO RECORDING CAPABILITY

Smith Corona - Display

\$113.53

16-character liquid crystal display to view and edit current line, 75,000 word Spell-Right, Punctuation Check, Full-line memory correction, Right Ribbon System, Word Find, 10 CPS Speed, right margin justification, built-in abbreviations

Smith Corona- Spellmate

\$109.08

75,000 word Spell-right, Built-in abbreviations, full-line memory correction, multi-language characters and symbols, WordEraser/ Line Eraser, Right Ribbon System, 10 CPS Speed, Word Swap, Word Find

SMITH CORONA Office 2000

\$161.39

24,000 Character editable memory, 2-line by 40-character liquid crystal display, 90,000 word spell-right electronic dictionary, 3-line memory correction, block move, copy, delete, insert, search, replace, return, center, underscore, bold, indent, forms, layout, right margin justification, punctuation check, 60 day memory backup, print speed (cps) 12, word find, word eraser.

RCA AM/FM Walkman

\$12.21

AM/FM Stereo headset radio, 2 built in antennas, lightweight stereo headphones with adjustable headband, operates on 2 "AA" batteries not included.

RECEIVED 5-23-99
B. Brown

[Signature]

INMATE NAME: C. Isley

INMATE DOC#: AM-9320

HOUSING UNIT CELL#: IB-16

ITEM

#2887 G.E. Super Radio

QUANTITY

PRICE

1

48.25

OK

PAUL

TOTAL: 48.25

PRICES INCLUDE 6% SALES TAX

SCI MAHANAY

ELECTRONICS ORDER FORM

KTV-#13CCE-1 \$174.50
13" Color Television, 181 channel capability, earphone jack, channel cable compatible, color receiver, closed caption, text decoder, front panel control of all functions, complete on screen display, high resolution, memory backup, 1 year warranty on parts and labor.

RCA #E13332BC \$191.44
13" Color Television, 181 channel tuning capability, earphone jack, auto programming, closed caption capability, picture reset, Hi-Con picture tube, on screen time and channel display, multi-language on-screen display, sleep timer, on screen menu system, average wattage within 46 watts.

KTV #KT1210A3 \$84.59
12" Black and White Television with earphone jack, direct wired, UL approved, UL listed.

RCA #RP1882 \$35.62
PLL Digital AM/FM stereo tuner with station seek up/down, 20 station preset (10 AM/10 FM), LCD display, search-up for preset stations, 4-pushbutton cassette operation, auto reverse for continuous play, bass boost, lightweight plastic stereo headphones. NO CLOCK

AIWA HS-GS173 \$27.83
Headphones stereo cassette with multi sound processor, classic/pop/rock/jazz, battery life indicator, tape selector, uses 2 "AA" batteries.

RCA #RP1812 \$18.91
AM/FM Personal Stereo cassette player, AM/FM stereo tuner, 3-pushbutton cassette operation, automatic and of tape shutoff, bass boost, lightweight plastic stereo headphones, operates on 2 "AA" batteries not included.

G.F. Super Radio III #2887 \$48.25
High performance AM/FM portable radio; separate bass and treble tone controls, dual speaker system (6-1/2" high sensitivity speaker plus 2" tweeter), auto frequency control, headphone jack, wide band tuning.

GF# #C478 \$26.71
AM/FM stereo cassette player, auto reverse cassette deck, play/stop/fast forward/rewind cassette functions, stereo headphone jack, full range speakers, AC/DC, AC cord included, uses 4 "C" batteries (not included). NO RECORDING CAPABILITY

CANON Typewriter #15 Portable Typewriter \$114.63
Built in 60,000 English word spell checker, paper feed, carrier return, tab, centering, right margin alignment, over 100 built in multilingual & special characters, one line correction memory, indent, 3 shading patterns, thermal transfer printer, AC/DC power source. NO TEXT OR STORABLE MEMORY.
Replacement Ribbons #CR-100 (2 pack) \$11.12

CANON QS210 Personal Typewriter \$124.64
Built in 60,000 word spell checker, beam marker, correction ribbon, quiet sensation while printing, carbon copy mode, auto paper feed, auto paper eject, underline & print, page end lock, word delete paragraph indent, decimal tab, caps lock, 14 CPS speed, relocate function, superscript/subscript, right margin alignment, AC power source. NO TEXT OR STORABLE MEMORY.
Replacement Correctable Ribbon (1 pc) #SC70 \$5.00
Lift off correction tape (4 pack) #SC78 \$5.00

SMITH CORONA Office 2000 \$161.39
24,000 Character editable memory, 2-line by 40-character liquid crystal display, 90,000 word spell-right electronic dictionary, 3-line memory correction, block move, copy, delete, insert, search, replace, return, center, underscore, bold, indent, forms, layout, right margin justification, punctuation check, 60 day memory backup, print speed (cps) 12, word find, word eraser.

RCA AM/FM Walkman \$12.21
AM/FM Stereo headset radio, 2 built in antennas, lightweight stereo headphones with adjustable headband, operates on 2 "AA" batteries not included.

INMATE NAME: C. Isley
INMATE DOC#: AM-9320
HOUSING UNIT CELL#: IB-16

ITEM	QUANTITY	PRICE
RCA #RP1882	1	35.62

TOTAL: 35.62

PRICES INCLUDE 6% SALES TAX

RETURNED TO
VENDOR FOR
EXCHANGE

*
2-5-99

135

Addressed To: Palley, Chak
 Name: AA9320
 No: _____

STATE CORRECTIONAL INSTITUTION AT
 MAHANG

INMATE PERSONAL PROPERTY RECEIPT
 SCI MAH - MAIL ROOM

IB
1-Cassette Player

Inmate Property Received

From: Supplies
Substitution

Description and Quantity of Articles Received:

* Replacement

I understand the above listed approved articles become part of my personal property and I may not lend, give, sell, trade or exchange them with other inmates at this institution.

Inmate Signature Note: 03-13-00 PRKED WITH PRIVATE FEEL Number _____ Date _____

Attesting Officer Making Delivery Supplies To SCI MAH Number _____ Date _____

The following disapproved articles are to be returned to the sender and a DC-138A cash slip will be sent to the Mail Room to cover the necessary postage.

RETURNED TO VENDOR FOR REFUND
INMATE REFUSED TO SEND IT OUT. WANTS TO FILE COMPLAINT

Inmate Signature R. J. Number AA9320

Attesting Officer B. Branson Date 3-19-99

WHITE—Mail Room YELLOW—Property Office PINK—in mate GOLD—Block Officer

EXHIBIT "T"

804

1

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

CIAL INMATE GRIEVANCE

GRIEVANCE NO.

MAH-0146-99

GRIEVANCE COORDINATOR

Datter

INSTITUTION

Mahanoy

DATE

990501

1. (Commitment Name & Number)

C. Isley AM-9320

INMATE'S SIGNATURE

C. Isley

2. ASSIGNMENT

M1

QUARTERS ASSIGNMENT

IB-16

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

Brief, clear statement of grievance:

On 990415 a lined guitar bag in the mail which was confiscated by the property room (confiscation #A000956), I do not understand because lined guitar bags, as opposed to lined guitar cases are permitted. If the bags were not lined they would offer no protection for the guitar and ergo would be utterly useless while cases could be lined or unlined and protect the guitars. Numerous other prisoners have lined guitar bags (there is no such thing as an unlined guitar bag) and I wish to know why I am not permitted to have mine. I was instructed by Gregory to not purchase a lined guitar case and I complied and bought instead a guitar bag of the same type that other prisoners have.

Actions taken and staff you have contacted before submitting this grievance:

Actions taken: Contacted staff

Staff contacted: Novotney, Gregory, Mahally, property room

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Signature of Grievance Coordinator

C. Datter

Date

5/3/99

-804
T IICOMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001ICIAL INMATE GRIEVANCE
IAL REVIEW RESPONSE

GRIEVANCE NO. MAH-0146-99

(Name & DC NO.)	INSTITUTION	QUARTERS	GRIEVANCE DATE
Isley, AM-9320	SCI-Mahanoy	I/B #16	05/01/99

following is a summary of my findings regarding your grievance:

In regards to your grievance concerning your guitar case, as I informed you in my reply to your request dated 4/21/99, this particular case has excessive soft padding which raises some security concerns. These concerns are specific to the concealment of contraband, and for this reason they are not authorized to enter the institution.

The guitar cases that resemble this same style that are already inside the institution will be removed through attrition and as these inmates leave the institution.

I suggest you look into the hard style case with the thin lining to protect your guitar.

LPM:ms

cc: Deputy Novotney
Deputy Klem
Ms. Dotter
Records
file

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES ISELEY,

Plaintiff

v.

W. CONWAY BUSHEY, et al.,

Defendants

:
:
:
:
:
:
:
:

No. 1:00CV-00577

UNSWORN DECLARATION OF MARTIN L. DRAGOVICH

I, **MARTIN L. DRAGOVICH**, hereby declare under the penalty of perjury that the following is true and correct and based upon my personal knowledge:

1. I am currently employed by the Pennsylvania Department of Corrections ("DOC") as the Superintendent of the State Correctional Institution at Camp Hill, Pennsylvania ("SCI-Camp Hill"), and have held this position since July 17, 2000.

2. Prior to serving as Superintendent at SCI-Camp Hill, I served as the Superintendent at the State Correctional Mahanoy ("SCI-Mahanoy") in Frackville, Pennsylvania. At all times relevant to this complaint, I was Superintendent at SCI-Mahanoy.

3. As Superintendent at SCI-Mahanoy, I functioned as the administrative head of the institution. In the course of such employment, I have and have had reason to

be familiar with the standard policies and procedures followed at SCI- Mahanoy, as well as those of the Department, including inmate disciplinary procedures and record keeping practices concerning misconduct reports and inmate grievances.

4. In properly administering the Commonwealth's penal system, various operational policies exist relating to a wide variety of subjects including, the treatment of prisoners which includes but is not limited to the security of inmates and staff, psychological and medical treatment. I am familiar with the various DOC Administrative Directives that impact inmates.

5. Pursuant to DC-ADM 804, inmates may submit an appeal of a Inmate Grievance to me for review and decision. Likewise, pursuant to DC-ADM 801, inmates may submit an appeal of an institutional Misconduct Report to me for review and decision.

6. In December 1998, Iseley appealed the findings of Grievance No. MAH-0457-98 to me. In Grievance No. 457-98, Iseley alleged he was harassed, threatened and fired from his job. I reviewed Iseley's grievance, the grievance coordinator's findings as well as the information provided to her from Officer MacKreth and Unit Manager Chesney. (See Exhibit "A" attached).

7. I found that based upon the information provided that Iseley did not have a job at SCI-Mahanoy and was belligerent with officer McKreth. I denied Iseley's appeal on December 29, 1999. (Id.)

8. On January 5, 1999, Iseley appealed the decision of the Program Review Committee ("PRC") regarding Misconduct No. 110205, Refusing to Obey and Order, Using Abusive or Obscene Language. (See Exhibit "B" attached)

9. I reviewed the original misconduct, the Hearing examiner's disposition, Iseley's appeal to the PRC, their response and Iseley appeal my office. After a review of information and documentation, I denied Iseley's appeal. (Id).

10. On January 9, 1999, Iseley appealed the decision of the grievance coordinator regarding Grievance No. MAH- 0462-98 to me. In Grievance No. 0462-98, Iseley complained about low intensity cell lights. I reviewed Iseley's grievance, and the grievance coordinator's findings. I found the grievance coordinator's response complete and accurate, in that the low intensity cell lights must remain on for security reasons. I denied Iseley's appeal on January 11, 1999. (See Exhibit "C")

11. On December 26, 1998, Iseley filed Grievance No. MAH 0479-98, alleging he is not permitted to receive the alternative protein menu when pork is served. On January 4, 1999, the Food Service Manager, Robert Yarnell advised Iseley

that he would be allowed to receive the pork alternative if he signed up for the program. (Id) (See Exhibit "D" attached)

12. On January 8, 1999, I placed Iseley on grievance restriction, pursuant to DOC-ADM 804. I believed that Iseley was not making a good faith use of the grievance system, and not making a legitimate effort to resolve problems before using the grievance system as outlined in ADM 804 §B. It was evident to me that Iseley was using the grievance system as a response of the first resort in that he filed seven grievance in only 6 weeks. I limited Iseley to filing one grievance per month. (Id.)

13. On January 3, 1999, Iseley filed Grievance No. 002-99 alleging that Dennison misrepresented himself to Iseley as a member of the Board of Probation and Parole and that James Unell, the inmate program manager did not explain matters to him satisfactorily. (See Exhibit "E" attached)

14. On January 14, 1999, Unell responded to Iseley informing him that his consent was withdrawn per his request and that the original document was returned to him and a note was made on his DC-14 (Treatment file) that his consent was revoked. (Id.)

15. Iseley then appealed Unell's response to my office on January 23, 1999. Iseley's initial grievance, the initial response, and Iseley's appeal were reviewed. After a review of the information and documentation, the established and routine

procedures were followed relative to the reports needed and requested by the Parole Board. After a review of the grievance record, Iseley's appeal was denied. (Id.).

16. On March 4, 1999, Iseley submitted an Inmate's Request to Staff Member, directed to me. Iseley alleged that Islamic materials were confiscated and that Lt. Gavin made threats physical injury and racial slurs toward him. (See Exhibit "F" attached)

17. I responded to Iseley on March 5, 1999 and informed him that the two letters in question were confiscated because they had no return address on them and contained material which violated DOC policy governing incoming publications. (Id.)

18. On January 27, 1999, Iseley filed grievance No. MAH-0035-99, alleging that upon his release from the Restricted Housing Unit, he discovered items of his personal property missing, including twelve publications/magazines. (See Exhibit "G" attached)

19. On January 28, 1999, Lt. Mahally responded to Iseley grievance informing him that his personal property inventory sheet that accompanied him to SCI-Mahanoy reflected that he had seven magazines/publications. Mahally further explained to Iseley that following his confinement to the RHU his property was packed and secured in the property room. (Id.)

20. Iseley appealed the response to Grievance No. MAH-0035-99 to my office. I reviewed Iseley's original grievance, the grievance's officers response and his appeal to my office. I found that Iseley presented no proof that he had the items in question in his property at the time he was placed in the RHU. On February 17, 1999, I denied Iseley's appeal. (Id.)

21. In March of 1999, Iseley filed grievance No. MAH-0076-99 alleging that the medical department wrongfully charged him for sick call regarding a chronic condition, that he was being charged for glasses that he did not want and that the medical department refused to refer him for corneal implants. (See Exhibit "H" attached)

22. In my response to Iseley's grievance, I informed Iseley that he did not order photo gray lenses or sign a cash slip for the photo grey lenses and that treatment of his visual imperfection would not be corrected through corneal transplants or photo refractive Keratotomy because this procedure is cosmetic and can be corrected through lenses. I also informed him that at that time there was no protocol treatment for Hepatitis C and that the Bureau of Health Services was looking into it. I denied Iseley's appeal of the grievance and Chief Hearing Examiner Bitner, based upon the information and documentation provided, also upheld the responses provided to Iseley at the institutional level. (Id.)

23. On April 15, 1999, Iseley's guitar bag was confiscated for security reasons because the case had excessive soft padding which could be used to conceal contraband. Iseley then filed a Grievance No. MAH-00146-99 concerning the confiscation of the bag. I explained to Iseley that the bag was confiscated for security reasons. I also referred the matter to Lt. Mahally for further investigation to determine if other guitar bags have been permitted in the institution. I encouraged Iseley to inform Lt. Mahally of any bags he was aware of in order to compare the two. (See Exhibit "I" attached)

SCIC SUPERINTENDENT

Fax:7177837185

Jun 7 2001 7:58

P.08

6/7/01
DATE

Martin L. Dragovich
MARTIN L. DRAGOVICH

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES ISELEY,

Plaintiff

v.

W. CONWAY BUSHEY, et al.,

Defendants

:
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**No. 1:00-CV-00577
(Judge Kane)**

UNSWORN DECLARATION J. KANE

I, **J. KANE**, hereby declare under the penalty of perjury, that the following is true and correct and based upon by personal knowledge.

1. I am currently employed by the Pennsylvania Department of Corrections (“DOC”) as a Hearing Examiner. I have been employed as a hearing examiner for approximately sixteen years, conducting administrative factfinding hearings at SCI-Frackville, SCI-Mahanoy, SCI-Chester and occasionally at other facilities in the eastern region.

2. As a hearing examiner, I conduct administrative fact-finding proceedings concerning misconduct reports issued to inmates. My duties and responsibilities are governed by the DOC Administrative Directive, 801. These duties include but are not limited to the review of the evidence presented at the misconduct hearing, the

determination of relevant witnesses, the interview of the witnesses, the determination of the inmates guilty or innocence, and the imposition of sanctions.

3. On August 27, 1999, Iseley was issued Misconduct No. A27518 for Threatening and Employee With Bodily Harm. (See Exhibit "A" attached).

4. On August 30, 1999, I presided at the misconduct hearing of Charles Iseley regarding examiner Misconduct No. A27518. According to the misconduct report, during a safety and security check of Iseley cell, Iseley threatened officer Dropinisky with physical harm when he ordered him to remove an air freshener from his light fixture. (Id.)

5. At the hearing I considered officer's Dropinski's report as well as Iseley's version. After a review of the information, documentation and evidence presented, I believed Dropinski's report that Iseley threatened him with bodily harm and sanctioned Iseley to 60 days disciplinary custody. (Id.)

6. The finding of guilt and sanction imposed on Misconduct A27518 was not based upon Iseley's race, or for any discriminatory or retaliatory reasons. Rather, I found Iseley guilty based on the credibility evidence, testimony, reports presented.

SCI MAHANOY SUPT OFF
JUN-11-01 MON 12:39

7176213138
ATTORNEY GENERAL

06/13/01 15:33 :02/02 NO:733
FHA NO. 111 112 4020

6-14-01

DATE

J Kane
J KANE

EXHIBIT "A"

05/29/01 14:30 FAX 3673912

DOC TRNG ACAD

008

SEP 21 '99 02:26PM SCI PITTSBURGH 412 880 0287

P.2/41 Z

FORM DC-141		PART I		COMMONWEALTH OF PENNSYLVANIA		A 27518	
<input checked="" type="checkbox"/> MISCONDUCT REPORT		<input type="checkbox"/> OTHER		DEPARTMENT OF CORRECTIONS			
DC Number AM-9320	Name Isley, Charles	Institution SCI-MAH	Incident Time 24 Hr. Base 1820hrs	Incident Date 8-27-99	Date of Report 8-27-99		
Quarters IB-16	Place of Incident IB cell #16						
OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W) OFFICE OF THE							
DC Number	Name	I	W	DC Number	Name	I	W
					SEP 22 1999		
					CHIEF HEARING EXAMINER		
MISCONDUCT CHARGE OR OTHER ACTION							
CLASS 1. Category A I.N. threatening AN Employee or their family with bodily harm.							
STAFF MEMBER'S VERSION							
<p>On the ABOVE time AND date, while conducting A safety AND security check on cell #16, Isley (AM-9320). Inmate Isley WAS ORDERED TO Remove AN Air Freshener FROM his light fixture. After given the ORDER, Inmate Isley jumped DOWN off of his Bunk AND in A very aggressive manner. APPROACHED this officer with closed fists AND stated "you picked the WRONG person to be f---ing with, get outta my cell before you get hurt". I, CO DRopinski, then closed Inmate Isley's cell door AND NOTIFIED the T-Block Control Sergeant.</p>							
IMMEDIATE ACTION TAKEN AND REASON							
Confine in the Restricted Housing Unit pending further action by the Hearing Examiner							
PRE-HEARING CONFINEMENT							
IF YES							
TIME		DATE					
2120		8/27/99					
<input checked="" type="checkbox"/> YES		<input type="checkbox"/> NO					
REPORTING STAFF MEMBER SIGNATURE AND TITLE				ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY SIGNATURE AND TITLE		DATE AND TIME INMATE GIVEN COPY	
CO' DRopinski / [Signature]				Capt. [Signature]		8-27-99 2142	
YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER DATE				Misconduct Category		Signature of Person Serving Notice	
8/29/99 0800				<input checked="" type="checkbox"/> CLASS 1 <input type="checkbox"/> CLASS 2		CO Shift	
NOTICE TO INMATE							
<p>You are scheduled for a hearing on this allegation on the date and the time indicated or as soon thereafter as possible. You may remain silent, if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class 1 misconduct, any pre-release status you have will be revoked.</p>							

WHITE — DC-15

YELLOW — Inmate Cited

PINK — Staff Member Reporting Misconduct

GOLDENROD — Deputy Superintendents

05/29/01 14:30 FAX 3673912

DOC TRNG ACAD

009

SEP 21 '99 02:27PM SCI PITTSBURGH 412 880 0287

P.3/4

DC-141
 Rev. 6-84
DISCIPLINARY HEARING REPORT
PART II B**COMMONWEALTH OF PENNSYLVANIA****DEPARTMENT OF CORRECTIONS**

DC Number AMP9320	Name ISLEY	Institution SCMBAH	Hearing Date 8-30-99	Hearing Time 12:10	No. from Part I A2758
INMATE PLEA	<input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Not Guilty	<input type="checkbox"/> No Plea <input type="checkbox"/> Other	Verdict	<input checked="" type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty	

CHARGES *A#121 threats on employee - not guilty*
HEARING ACTION**FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED**

Examiner states in attached memo that he was threatened by staff. The staff assaulted him & put him in the cell & drag him down. W/for the officer i put on the inmate's head that he did "get out of my cell before you get hurt." "If there was guard + I put it there. Just him just of the threat of."

*Sent: GO of DC
8-27-99
10-85-91*

☒ YES ☐ NO
☒ YES ☐ NO
☒ YES ☐ NO
☒ YES ☐ NO

The inmate has heard the decision and has been told the reason for it and what will happen.
 The circumstances of the charge have been read and fully explained to the inmate.
 The opportunity to have the inmate's version reported as part of the record was given.
 The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.

SEE APPENDICES

 NAME(S) OF HEARING EXAMINER/COMMITTEE
 (TYPED OR PRINTED)
J. K. KANE

Hearing Report and all appended information must be signed. Signature indicates finished report with appendices.

SIGNATURE OF HEARING EXAMINER/COORDINATOR

WHITE-DC-15

YELLOW-Inmate Cited

PINK-Staff Member Reporting Misconduct

GOLDENROD-Deputy Superintendent 512

05/29/01 14:31 FAX 3673912

DOC TRNG ACAD

010

SEP 21 '99 02:27PM SCI PITTSBURGH 412 880 0287

P.4/4

DC-T41		PART II C		COMMONWEALTH OF PENNSYLVANIA	
Rev. 5-84 HEARING SUPPLEMENT				DEPARTMENT OF CORRECTIONS	
INMATE VERSION AND WITNESS STATEMENTS					
DC Number	Name	Institution	No. from PART I		
AM-9320	ISLEY, CHARLES	SCI-MAH	A27518		
INMATE'S VERSION					
<p>Prisoner Isley pleads not guilty to the false charge based on the following reasons:</p> <p>He was confined (prehearing confinement) in his cell at 1820 hrs and not 2120. This is corroborated by the staff member's version. The Prehearing Confinement Section was written by someone else which is corroborated by the comparison of the handwriting.</p> <p>He did not threaten anyone and is a Black man from Philly who has never spoken in the manner alleged.</p> <p>He would never approach anyone with "closed fists" because he was a boxer and a boxing trainer and "closed fists" are in direct opposition to everything he was ever taught. He has fought concerning fighting and in direct conflict with anything he has ever done.</p> <p>What actually occurred was that his cell was being searched and the guard ordered him to get rid of all his legal work save for a folder because allegedly it is a rule and a possible fire hazard. When it was explained that he had a trial next month and that he was not throwing any legal material away, the guard stated that he was aware that prisoner Isley was going to trial soon and he became abusive, giving threats and racial slurs. When prisoner Isley stated he wished to speak to the lieutenant, the guard physically assaulted him by pushing him back into the cell, forcing him to hit his head on the table and the guard slammed the door. Prisoner Isley then pushed the intercom button and informed the Sgt. that he wished to speak to the lieutenant and of the assault but was told "so what" at 1900 hrs. Prisoner Isley again requested to speak to the lieutenant via the intercom but was told by the sergeant that he was confined by the lieutenant's orders. Each time thereafter that the guard made his rounds he would stop at prisoner Isley's cell and threaten him with physical injury and make racial remarks, and ask him when he next would lose the parole board.</p> <p>Prisoner Isley is in fear for his life, freedom, and well being from this feared racist vicious killer guard and wish to be separated from him to stop the guard from making good on his threats to "look up and kill" prisoner Isley. He is in serious need of assistance and wishes to press charges as soon as possible. Please help him because he is terrified for his life.</p>					

WHITE - DC-15

YELLOW - Inmate Cited

PINK - Staff Member Reporting Misconduct

GOLDENROD - Deputy Superintendent

134

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES ISELEY,

Plaintiff

v.

W. CONWAY BUSHEY, et al.,

Defendants

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**No. 1:00-CV-00577
(Judge Kane)**

**UNSWORN DECLARATION OF
ROBERT MACKRETH**

I, **Robert Mackreth**, hereby state under penalty of perjury that the following is true and correct and based upon my personal knowledge:

1. I am currently employed at the State Correctional Institute at Waymart ("SCI-Waymart") as a Correctional Officer. I have been employed at SCI-Waymart since August 2, 1999.

2. At the time relevant to this complaint I was a Correctional Officer assigned primarily to JA Block at SCI-Mahanoy.

3. On December 13, 1997, inmate Charles Iseley was out on the J/A cell-block tier. I ordered Iseley to return to his cell and lock-up. Iseley refused my order informing me that he had a job as a Block Worker.

4. I check the Block Worker's roster for block J/A and could not find Iseley's name on the list. I again ordered Iseley to his cell. Iseley then became belligerent and argumentative with me.

5. Subsequent to Iseley's filing Grievance No. 0457-98 regarding his alleged block assignment, I was contacted by Carol Dotter, the Grievance Coordinator at SCI-Mahanoy. Attached as Exhibit "A" is a true and correct copy of my statement to Dotter regarding Iseley's alleged block assignment.

6. According to the Block Worker's roster and the information available, Iseley did not have a job on J/A block or anywhere else at SCI-Mahanoy in December, 1998. (See Exhibit "A" attached).

7. At no time did I engage in any retaliating or discriminating conduct or actions against Charles Iseley while he was incarcerated at SCI-Mahanoy or at any other time.

JUN-13 01 14:04 FROM: S C I WAYMART

570-253-7129

TO: 717 772 4526

PAGE: 04

JUN-13-01 WED 13:44

ATTORNEY GENERAL

FAX NO. 717 772 4528

P. 04/04

6-13-01

DATE



ROBERT MACKRETH

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES ISELEY,

Plaintiff

v.

W. CONWAY BUSHEY, et al.,

Defendants

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No. 1:00CV-00577

UNSWORN DECLARATION OF LAWRENCE MAHALLY

I, **LAWRENCE MAHALLY**, hereby declare under the penalty of perjury that the following is true and correct based upon my personal knowledge:

1. I am currently employed by the Pennsylvania Department of Corrections ("DOC") as a Lieutenant at the State Correctional Institution Mahanoy ("SCI-Mahanoy") in Frackville, Pennsylvania. At the time relevant to this complaint I was a Non-Housing Zone Lieutenant.

2. As a Non-Housing Zone Lieutenant, I supervise Correctional Officers I and II assigned to non-housing areas such as administration building, visiting room, property room, and the medical department etc.

3. On January 27, 1999, Iseley filed grievance No. MAH-0035-99, alleging that upon his release from the Restricted Housing Unit, he discovered items of his personal property missing, including twelve publications/magazines. (See Exhibit A" attached).)

4. On January 28, 1999, I responded to Iseley grievance informing him that his personal property inventory sheet that accompanied him to SCI-Mahanoy reflected that he had seven magazines/publications. Mahally further explained to Iseley that following his confinement to the RHU on December 16, 1998, his property was packed and secured in the property room. The property inventory sheet dated December 17, 1998 does not show that any magazines were present with Iseley's property at that time. (Id.)

5. Furthermore, I explained to Iseley that the property room did not receive any requests from him concerning any missing items while he was in the RHU, and that he failed to mention anything concerning the alleged missing items when he was in the property room on December 22, 1998 to pick up some legal material. Iseley could provide no proof of missing items in his property. (Id.)

6. In May, 1999, Iseley filed Grievance No. MAH-0146-99 regarding the confiscation of his guitar bag. On May 10, 1999 I explained to Iseley that he bag was confiscated because that particular case has excess padding which raised security concerns.

SCI MAHANAY SUPT OFF
JUN-11-01 MON 13:09

7176213138
ATTORNEY GENERAL

06/13/01 14:12 :04/04 NO:731
FAX NO. 111 112 4520

06/12/01
DATE

Lawrence P. Mahally
LAWRENCE MAHALLY

EXHIBIT "A"

DC-804
PART II

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001

OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO.

MAH-0035-99

TO: (Name & DC NO.) C. Isley AM-9320	INSTITUTION SCI-Mahanoy	QUARTERS I/B 16	GRIEVANCE DATE 1/28/99
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The following is a summary of my findings regarding your grievance:

This is in response to your grievance concerning your property. The personal property inventory that accompanied you when you arrived at SCI-Mahanoy reflects that you had seven magazines.

Following your confinement to the RHU on 12/16/98, all of your property that was present in your cell was packed and removed by Sgt. Birosak. Your property was then secured in the Property Room until it was inventoried by Officer Peek. The Personal Property Inventory dated 12/17/98 does not show that any magazines were present with your property at that time. You received your copy of this inventory with your basic RHU issue.

Not only did the Property Room not receive any requests from you concerning any missing items while you were in the RHU, but you also failed to mention anything concerning these items when you were in the Property Room on 12/22/98 to pick up some legal material.

Based on the information above, I conclude that there were no magazines present with your property when it was packed and removed from your cell. Unless you can provide me with proof that these items were present with your property at the time of your confinement, I will take no further action on this matter.

In addition, excessive state-issued items do not require a Confiscation Slip as long as they are not related to a misconduct.

LPM:js

cc: Deputy Novotney
Deputy Klem
~~Mrs. Dotter~~
Records DC-15
Sgt. Birosak
COI Peek
file

[Signature] COTT

IC-804
ART 1COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO.

MAH-0035-99

TO: GRIEVANCE COORDINATOR <i>Dotter</i>	INSTITUTION <i>Mahanoy</i>	DATE <i>990127</i>
FROM: (Commitment Name & Number) <i>C. Isley AM-9320</i>	INMATE'S SIGNATURE <i>C. Isley</i>	
WORK ASSIGNMENT <i>M.P.</i>	QUARTERS ASSIGNMENT <i>IB-16</i>	

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Brief, clear statement of grievance:

On 980114 I was released from the and some of my property was missing. I informed the sergeant who instructed me to write the property room, which I did - twice. The missing property consists of several brown sock and white boxer shorts (I had more than the limit because of the items given to me upon my arrival by clothing exchange) and all but save for two pornographic books. I received no confiscation slips and, according to other prisoners, it is common practice for pornographic books to be taken. However, these books were exhibits for my lawsuit in the Western District Federal Court and therefore I want them returned immediately or to have confiscation slips. They were included in my inventory sheets (most of them) from Rockview prison. I have grievances to verify receipt of the others at Rockview. Else, I wish to be reimbursed.

B. Actions taken and staff you have contacted before submitting this grievance:

Actions taken: Contacted staff.

Staff contacted: Property Room Sgt., Property Room staff

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Signature of Grievance Coordinator

Date

1/28/99

EXHIBIT "B"

DC-135A

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF CORRECTIONS

INMATE'S REQUEST TO STAFF MEMBER

INSTRUCTIONS

Complete Items Number 1-7. If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently.

RECEIVED
MAY 17 1999

1. TO: (NAME AND TITLE OF OFFICER)

SCI MAHANAY
SUPERINTENDENT'S OFFICE
Dragovich, William

2. DATE

990515

3. BY: (INSTITUTIONAL NAME AND NUMBER)

Isley AM-9320

4. COUNSELOR'S NAME

N.I.

5. WORK ASSIGNMENT

N.I.

6. QUARTERS ASSIGNMENT

IB-1b

7. SUBJECT: STATE COMPLETELY BUT BRIEFLY THE PROBLEM ON WHICH YOU DESIRE ASSISTANCE. GIVE DETAILS.

I wish to appeal grievance MAH-0146-99 because I ordered what I was told to order. Gregory informed me, in writing, that lined guitar cases were not permitted (however, according to the grievance response, they are). Consequently, I purchased a guitar bag of the same type that other prisoners have and yet I am not allowed to have it. They were permitted when it was approved and purchased and I should be allowed to have it.

8. DISPOSITION: (DO NOT WRITE IN THIS SPACE)

☐ TO DC-14 CAR ONLY☐ TO DC-14 CAR AND DC-15 IRS

STAFF MEMBER

DATE

DC-804
ART II

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001

OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO. MAH-0146-99

TO: (Name & DC NO.) C. Isley, AM-9320	INSTITUTION SCI-Mahanoy	QUARTERS I/B #16	GRIEVANCE DATE 05/01/99
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The following is a summary of my findings regarding your grievance:

In regards to your grievance concerning your guitar case, as I informed you in my reply to your request dated 4/21/99, this particular case has excessive soft padding which raises some security concerns. These concerns are specific to the concealment of contraband, and for this reason they are not authorized to enter the institution.

The guitar cases that resemble this same style that are already inside the institution will be removed through attrition and as these inmates leave the institution.

I suggest you look into the hard style case with the thin lining to protect your guitar.

LPM:ms

cc: Deputy Novotney
Deputy Klem
Ms. Dotter
Records
file

L. Mahanoy CO II

IC-804
ART 1COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO.

MAH-0146-99

TO: GRIEVANCE COORDINATOR <i>Dotter</i>	INSTITUTION <i>Mahanoy</i>	DATE <i>990501</i>
FROM: (Commitment Name & Number) <i>C. Isley AM-9320</i>	INMATE'S SIGNATURE <i>C. Isley</i>	
WORK ASSIGNMENT <i>M/I</i>	QUARTERS ASSIGNMENT <i>IB-16</i>	

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Brief, clear statement of grievance:

On 990415 a lined guitar bag in the mail which was confiscated by the property room (confiscation #A000956), I do not understand because lined guitar bags, as opposed to lined guitar cases are permitted. If the bags were not lined they would offer no protection for the guitar and ergo would be utterly useless while cases could be lined or unlined and protect the guitar. Numerous other prisoners have lined guitar bags (there is no such thing as an unlined guitar bag) and I wish to know why I am not permitted to have mine. I was instructed by Gregory to not purchase a lined guitar case and I complied and bought instead a guitar bag of the same type that other prisoners have.

B. Actions taken and staff you have contacted before submitting this grievance:

Actions taken: Contacted staff
Staff contacted: Novotney, Gregory, Mahally, property room

Your grievance has been received and will be processed in accordance with DC-ADM 804.

C. Dotter
Signature of Grievance Coordinator

5/3/99
Date

05/29/01 14:30 FAX 3673912

DOC TRNG ACAD

008

SEP 21 '99 02:26PM SCI PITTSBURGH 412 880 0287

P.2/40 Z

FORM DC-141		PART I		COMMONWEALTH OF PENNSYLVANIA		A 27518	
Rev. 1-84		<input checked="" type="checkbox"/> MISCONDUCT REPORT <input type="checkbox"/> OTHER		DEPARTMENT OF CORRECTIONS			
DC Number AM-9320	Name Isley, Charles	Institution SCI-MAH	Incident Time 24 Hr. Base 1820HRS	Incident Date 8-27-99	Date of Report 8-27-99		
Quarters IB-16	Place of Incident IB cell #16						
OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W) OFFICE OF THE							
DC Number	Name	I	W	DC Number	Name	I	W
					SEP 22 1999		
					CHIEF HEARING EXAMINER		
MISCONDUCT CHARGE OR OTHER ACTION							
CLASS 1. CATEGORY A I.N. threatening AN Employee or their family with bodily harm.							
STAFF MEMBER'S VERSION							
<p>ON the ABOVE time AND date, while conducting A safety AND security check on cell #16, Isley (AM-9320). Inmate Isley WAS ORDERED TO Remove AN Air Freshner FROM his light fixture. AFTER given the ORDER, Inmate Isley, jumped DOWN off of his Bunk AND IN A VERY aggressive manner, APPROACHED this officer with closed fists AND stated "YOU PICKED the WRONG person to be fuking with, get outta my cell before you get hurt. I, CO DROPINSKI, then closed Inmate Isley's cell door AND notified the T-Block Control Sergeant.</p>							
IMMEDIATE ACTION TAKEN AND REASON							
Confine in the Restricted Housing Unit pending further action by the Hearing Examiner							
PRE-HEARING CONFINEMENT							
IF YES							
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	TIME 2120	DATE 8/27/99	FORMS GIVEN TO INMATE				
			<input checked="" type="checkbox"/> REQUEST FOR WITNESSES AND REPRESENTATION		<input checked="" type="checkbox"/> INMATE'S VERSION		
REPORTING STAFF MEMBER SIGNATURE AND TITLE		ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY		SIGNATURE AND TITLE		DATE AND TIME INMATE GIVEN COPY	
CO DROPINSKI / Bill Dropinski		Capt. R. Cline				DATE 8-27-99 TIME 24 HOUR BASE 2142	
YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER DATE		TIME		Misconduct Category		Signature of Person Serving Notice	
8/29/99		0800		<input checked="" type="checkbox"/> CLASS 1 <input type="checkbox"/> CLASS 2		CO Shift	
NOTICE TO INMATE							
<p>You are scheduled for a hearing on this allegation on the date and the time indicated or as soon thereafter as possible. You may remain silent, if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class I misconduct, any pre-release status you have will be revoked.</p>							

WHITE —DC-15

YELLOW—Inmate Cited

PINK—Staff Member Reporting Misconduct

GOLDENROD—Deputy Superintendents

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES ISELEY,

Plaintiff

v.

W. CONWAY BUSHEY, et al.,

Defendants

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**No. 1:00-CV-00577
(Judge Kane)**

UNSWORN DECLARATION CHARLES MITCHELL

I, **CHARLES MITCHELL**, hereby declare under the penalty of perjury, that the following is true and correct and based upon by personal knowledge.

1. I am currently employed by the Pennsylvania Department of Corrections ("DOC") as a Hearing Examiner. I have been employed as a hearing examiner for approximately eight years, conducting administrative factfinding hearings at SCI-Smithfield, SCI-Cresson, SCI-Huntingdon, SCI-Rockview and occasionally at SCI-Houtzdale. I have been employed by the DOC for 2 years.

2. As a hearing examiner, I conduct administrative fact-finding proceedings concerning misconduct reports issued to inmates. My duties and responsibilities are governed by the DOC Administrative Directive, 801. These duties include but are not limited to the review of the evidence presented at the misconduct hearing, the

determination of relevant witnesses, the interview of the witnesses, the determination of the inmates guilty or innocence, and the imposition of sanctions.

3. On August 25, 1998, at approximately 6:00 p.m., Iseley was placed in Administrative Custody pending an investigation of possible involvement in a fight. (See Exhibit "A" attached).

4. On August 31, 1998, hearing examiner Mitchell conducted an in-camera hearing with Lt. Eaton to determine the reliability of the confidential source of information utilized in the in the investigation. This type of hearing is in accordance with DC ADM 801. (See Exhibit "B" attached).

5. The reliability hearing was conducted in-camera because the nature of the reliability of the evidence could, by itself, reveal the identity of the informants. Iseley, therefore was not present at this hearing. ().

6. At the reliability hearing, Lt. Eaton explained under oath how the informants were in a position to observe, what information the sources provided and that the information was corroborated by others. In addition, information was provided to the hearing examiner that the informant had provided information in the past that was proven to be reliable. (See Exhibit "A").

7. I found that the informants met the reliability criteria as outlined in DC-ADM 801.

8. On September 2, 1998, Iseley had a hearing regarding Misconduct No. A122000. At the hearing Iseley pled not guilty and submitted his version of the incident. (Id.).

9. After hearing the evidence, I believed that Iseley more likely than not conspired with and assisted another inmate with an assault on inmate Smith by standing in the cell doorway and not allowing the inmate to exit the cell. I relied on the credibility of Lt. Eaton's report and the CSI information over Iseley's denial and sanctioned him to 90 days Disciplinary Custody. (Id.).

10. I found Iseley guilty based on the credibility evidence, testimony, reports presented. The finding of guilt and sanction imposed was not based upon Iseley's race, or for any discriminatory or retaliatory reasons. I never made any racial or discriminatory remarks to Iseley before, during or after the misconduct hearing or at any other time.

11. At no time did I engage in any discriminatory or retaliatory conduct or actions concerning inmate Charles Iseley for any reasons while he was incarcerated at SCI-Rockview or at any other time.

8. On September 2, 1998, Iseley had a hearing regarding Misconduct No. A122000. At the hearing Iseley pled not guilty and submitted his version of the incident. (Id.).

9. After hearing the evidence, I believed that Iseley more likely than not conspired with and assisted another inmate with an assault on inmate Smith by standing in the cell doorway and not allowing the inmate to exit the cell. I relied on the credibility of Lt. Eaton's report and the CSI information over Iseley's denial and sanctioned him to 90 days Disciplinary Custody. (Id.).

10. I found Iseley guilty based on the credibility evidence, testimony, reports presented. The finding of guilt and sanction imposed was not based upon Iseley's race, or for any discriminatory or retaliatory reasons. I never made any racial or discriminatory remarks to Iseley before, during or after the misconduct hearing or at any other time.

11. At no time did I engage in any discriminatory or retaliatory conduct or actions concerning inmate Charles Iseley for any reasons while he was incarcerated at SCI-Rockview or at any other time.

DATE

CHARLES MITCHELL

05/30/2001 10:44 717-705-7240

OAG LITIGATION

PAGE 04

10. I found Iseley guilty based on the credibility of evidence, testimony, and reports presented. The finding of guilt and sanction imposed was not based upon Iseley's race, or for any discriminatory or retaliatory reasons. I never made any racial or discriminatory remarks to Iseley before, during or after the misconduct hearing or at any other time.

11. At no time did I engage in any discriminatory or retaliatory conduct concerning inmate Charles Iseley for any reasons while he was incarcerated at SCI-Rockview or at any other time.

5-30-01
DATE

C. Mitchell
CHARLES MITCHELL
Hearing Examiner

RM
Page 1 of 2

FORM DC-141		PART I		COMMONWEALTH OF PENNSYLVANIA		A 122000	
<input checked="" type="checkbox"/> MISCONDUCT REPORT		<input type="checkbox"/> OTHER		DEPARTMENT OF CORRECTIONS			
DC Number AM9320	Name Charles Isley	Institution SCIR	Incident Time 24 Hr. Base 1230hrs	Incident Date 8-24-98	Date of Report 8-31-98		
Quarters DA/AC	Place of Incident Building A Cell 1-30						
OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)							
DC Number	Name	I	W	DC Number	Name	I	W
CF5358	Michael Smith	X					
DA9752	Lewis Gay	X					
MISCONDUCT CHARGE OR OTHER ACTION <u>Class I Category B 12- Violation of Pa. Crimes Code not in Category 1 - 90.3 Criminal Conspiracy To Commit Aggravated Assault</u>							
STAFF MEMBER'S VERSION <u>On 8-24-98 CF5358 Michael Smith was a victim of an aggravated assault which took place in his assigned cell Building A cell 1-30. Two confidential source informants #105 and #106 have been identified as being in a position to observe the violation and gain knowledge of said violation. Both confidential source informants have corroborated each others account of the incident detailing how and when the aggravated assault occurred. On 8-24-98 at approx 1230 hrs. DA9752 Lewis Gay and AM9320 Charles Isley went to CF5358 Michael Smith's cell A - 1-30. Smith was sitting on his chair in the cell. Gay entered the cell while Isley remained in the cell's doorway, blocking any attempt by Smith to depart</u>							
IMMEDIATE ACTION TAKEN AND REASON <u>see pg 2</u>							
PRE-HEARING CONFINEMENT							
IF YES							
<input checked="" type="checkbox"/> YES	TIME <u>already</u>	DATE <u>confined</u>		FORMS GIVEN TO INMATE			
<input type="checkbox"/> NO				<input checked="" type="checkbox"/> REQUEST FOR WITNESSES AND REPRESENTATION <input checked="" type="checkbox"/> INMATE'S VERSION			
REPORTING STAFF MEMBER SIGNATURE AND TITLE <u>J. [Signature]</u>		ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY <u>J. [Signature]</u>		SIGNATURE AND TITLE <u>[Signature]</u>		DATE AND TIME INMATE GIVEN DATE <u>8-31-98</u> TIME 24 HOU <u>1030</u>	
YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER DATE <u>9-1-98</u> TIME <u>1035</u>				Misconduct Category <input checked="" type="checkbox"/> CLASS I <input type="checkbox"/> CLASS 2		Signature of Person Serving Not <u>Clarence P Lee</u>	
NOTICE TO INMATE You are scheduled for a hearing on this allegation on the date and the time indicated or as soon thereafter as possible. You may remain silent, if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class I misconduct, any pre-release status you have will be revoked.							

part 2
12200

FORM DC-141		PART I		COMMONWEALTH OF PENNSYLVANIA			
<input checked="" type="checkbox"/> MISCONDUCT REPORT		<input type="checkbox"/> OTHER		DEPARTMENT OF CORRECTIONS			
DC Number AM932C	Name Charles Isley	Institution SCIR	Incident Time 24 Hr. Base 1230hrs	Incident Date 8-24-98	Date of Report 8-31-98		
Quarters DA/AC	Place of Incident Building A Cell 1-30						
OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)							
DC Number	Name	I	W	DC Number	Name		
MISCONDUCT CHARGE OR OTHER ACTION							
SEE PAGE 1							
STAFF MEMBER'S VERSION							
<p>The cell. Gay had dark brown work gloves on and also a knit cap with holes cut out to serve as a mask. Gay began to strike Smith in the face/head area an exuberant numerous times. The assault was in such excess that Smith was unable to defend himself. Shortly after the assault began, an officer started down this particular range. At this time, Isley alerted Gay and both departed the cell. At this time, Gay removed mask which allowed for positive identification. Smith's injuries were discovered later on same date by corrections officers. Smith had numerous facial injuries documented by the med. dept. Medical incident/injury report and photographs available in the Security Office. Report delayed due to investigation.</p>							
IMMEDIATE ACTION TAKEN AND REASON							
Inmate already confined in re/c - to remain confined as a threat to staff until misconduct hearing							
PRE-HEARING CONFINEMENT							
IF YES							
<input checked="" type="checkbox"/> YES	TIME	DATE					
<input type="checkbox"/> NO	already	confined					
REPORTING STAFF MEMBER SIGNATURE AND TITLE			ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY		FORMS GIVEN TO INMATE <input checked="" type="checkbox"/> REQUEST FOR WITNESSES AND REPRESENTATION		
J. P. [Signature]			D. [Signature]		<input checked="" type="checkbox"/> INMATE'S VERSION		
DATE AND TIME INMATE GIVEN			DATE AND TIME INMATE GIVEN				
DATE			DATE		TIME 24 HOURS		
8-31-98			8-31-98		1030		
YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER			Misconduct Category		Signature of Person Serving Notice		
DATE			CLASS 1 <input checked="" type="checkbox"/> CLASS 2 <input type="checkbox"/>		Doreen R Lee		
TIME							
9-1-98			1035				
NOTICE TO INMATE							
<p>You are scheduled for a hearing on this allegation on the date and the time indicated or as soon thereafter as possible. You may remain silent, if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class I misconduct, any pre-release status you have will be revoked.</p>							

DC-141 Rev. 6-84 DISCIPLINARY HEARING REPORT		PART II B		COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS	
DC Number AM9320	Name Charles Isley	Institution SCIR	Hearing Date 9/02/98	Hearing Time 0815	No. from A122
INMATE PLEA	<input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Not Guilty	<input type="checkbox"/> No Plea <input type="checkbox"/> Other	Verdict <input checked="" type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty		
HEARING ACTION					
CHARGES Class I-B, #12 Violation of PA Crimes Code not in Category I, 903 Criminal Conspiracy to commit aggravated assault					
FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED					
<p>PLEADS NOT GUILTY #12 SUBMITTANCE</p> <p>IT HAS NO KNOWLEDGE OF THIS INCIDENT. NEVER AT SMITH'S CELL</p> <p>DON'T KNOW GAY FROM ANOTHER JAIL NEVER PARTICIPATED IN AN ASSAULT</p> <p>SMITH.</p>					
<p>H.Ex. believes C03 Eaton's credible report and the CSI information over the denail of inmate Isley that more likely than not inmate Isley did conspire with and then assist inmate Gay with an assault on CF5358 Smith by standing in the doorway to Smith's cell and not allowing inmate Smith to exit the cell as the assault was in progress. Inmate Isley would not be expected to stand in the doorway and assist inmate Gay as the CSI's state if were simply passing the cell as inmate do not want to become involved and likely pass the going to their own cells so as not to get involved. They would not jump in and assist in an assault unless they had and where involved with the assault and had previously planned to so. The CSI identification of inmate Gay as the Assaulter and Inmate Isley as the inmate whom stood in the doorway blocking Smith's exit clearly establishes a preponderance of evidence that the two had planned previously to assault Smith and what both's role would be upon arrival to the cell. H.Ex. notes this to be a very severe assault on inmate Smith and the charge of Aggravated Assault warranted. Hex further finds a preponderance of evidence to believe that Isley conspired with and then participated in the Assault on Smith along with inmate Gay. H.Ex. sanctions above range as inmate Isley did conspire and then DID Participate in assault which was very severe in nature. Isley is not believed that he has no knowledge of assault based on the CSI identification of Isley and his actions during the assault. These CSI's would have no reason to lie about Isley's participation and H.Ex. notes this incident occurred when Chow lines where returning to the block. Many inmates would be in the area and have reason to see the assault as it occurred and none would have called out there is an assault in progress due to not wanting to be called a "Snitch," in fear of their own safety.</p>					
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO The inmate has heard the decision and has been told the reason for it and what will happen. <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO The circumstances of the charge have been read and fully explained to the inmate. <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO The opportunity to have the inmate's version reported as part of the record was given. <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.					Guilty # 12 90 Days D.C. effective SEE APPENDICES <input checked="" type="checkbox"/> PHOTO PAGE. MRO RUFF CF5 RELIABILITY HIGH
NAME(S) OF HEARING EXAMINER/COMMITTEE (TYPED OR PRINTED)			Hearing Report and all appended information must be signed. Signature indicates finished report with appendices.		
C. Mitchell			C. Me. SIGNATURE OF HEARING EXAMINER/COORDINATOR		

DC-141 Rev. 6-84 DISCIPLINARY HEARING REPORT		PART II B COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS			
DC Number Am9320	Name ISKEY, Charles	Institution SCM	Hearing Date 9-03-98	Hearing Time 0900	
INMATE PLEA	<input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty	<input type="checkbox"/> No Plea <input type="checkbox"/> Other	Verdict	<input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty	
CHARGES 12 (CONT'D)		HEARING ACTION PAGE #2			
FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED					
<p>HEY NOTES CONTINUE HEARING TEL 9-03-98 TO ALLOW HEY PROPERLY DOCUMENT HIS DECISION. AFTER DOCUMENT TITLE D & PROOF TO GIVE THE DECISION HEY RECORD A TOMELY REQUEST 2 WITNESS BOTH ALLOWED NOTE AM9320 NOTE ABOUT WITNESSES ON 9-02-98.</p> <p>SCRUGGS - WAS NOT ON THE BLOCK AT THE TIME. BUT KITCHEN WORKER. IT WAS IMPOSSIBLE FOR ME TO KNOW WHERE GAY OR ISKEY WAS. DID GET AN OTHER INVOLVEMENT ON A FRUIT UNKNOWN INMATE SAID AS I WAS LOCKED UP BECAUSE I WAS SUPPOSEDLY STRAYING ON THE PLACE WHERE THE ASSAULT OCCURRED. SAID ME SAID I HAD 10 INMATES THAT TOLD ME AS TO THE FACT. SAID THAT WE DON'T KNOW.</p> <p>GAY - I DID NOT PLAN WITH, NOR COMMIT AN ASSAULT ON ANOTHER INMATE WITH AM9320 ISKEY. ISKEY & I HAD JUST COME FROM LUNCH WHEN TO MY CELL KNOW WHAT HE DID AFTER PRISON. DID NOT ASSAULT ANYONE.</p>					
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	The inmate has heard the decision and has been told the reason for it and what will happen. The circumstances of the charge have been read and fully explained to the inmate. The opportunity to have the inmate's version reported as part of the record was given. The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.	
NAME(S) OF HEARING EXAMINER/COMMITTEE (TYPED OR PRINTED)				SEE APPENDICES <input type="checkbox"/>	
Charles Mettall				Hearing Report and all appended information must be signed. Signature indicates finished report with appendices. Ch. Me.	

DC-141 Rev. 6-84 DISCIPLINARY HEARING REPORT		PART II B COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS			
DC Number Am 9320	Name ISLEY, CHARLES	Institution SCM	Hearing Date 9-03-98	Hearing Time 0900	
INMATE PLEA	<input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Not Guilty	<input type="checkbox"/> No Plea <input type="checkbox"/> Other	Verdict <input checked="" type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty		
CHARGES 12		HEARING ACTION PAGE # 3			
FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED					
<p>HEY NOTES PREVIOUSLY DETERMINED THAT THE ARE RELIABLE BASED ON THE RELIABILITY TENDENCY FROM COMPLETION. INMATE SUGGS NOW COMES IN AND STATE HE WAS CHARGED WITH BEING OUTSIDE THE CELL AS AS INMATE ISLEY & GAY WITH THE ASSAULT OCCURRED. STATES COMPLETION TOLD HIM SINCE HE HAD <u>10</u> CSI'S IDENTIFIED HIM AS BEING PRESENT AT THE ASSAULT. HEY NOTES THE COMPLETION HAD <u>10</u> CSI'S A MISCONDUCT WOULD CERTAINLY HAVE ISSUED. ON 9-2-98 SUGGS WAS STILL AT INMATE STATUS. HEY CLERK 9-03-98 SUGGS IN GENERAL POPULATION STATUS. HEY CLERK DOES NOT BELIEVE THAT COMPLETION HAD 10 CSI'S WITH IDENTIFIED SUGGS AS BEING PRESENT ON A MISCONDUCT WOULD BEING HEY NOTES MANY POSSIBILITIES EVENT THAT 1. SUGGS WAS INVESTIGATED AS TO POSSIBLE INVOLVEMENT IN PLANNING THE ASSAULT, 2. POSSIBLE THAT HE WAS PRESENT AT THE ASSAULT 3. COMPLETION COULD NOT GIVE THE EVIDENCE TO TO SUGGS AS INVOLVING ISLEY CLAIMS THE CSI'S TO BE UNRELIABLE</p>					
<input type="checkbox"/> YES <input type="checkbox"/> YES <input type="checkbox"/> YES <input type="checkbox"/> YES	<input type="checkbox"/> NO <input type="checkbox"/> NO <input type="checkbox"/> NO <input type="checkbox"/> NO	The inmate has heard the decision and has been told the reason for it and what will happen. The circumstances of the charge have been read and fully explained to the inmate. The opportunity to have the inmate's version reported as part of the record was given. The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.			
NAME(S) OF HEARING EXAMINER/COMMITTEE (TYPED OR PRINTED) C. METZGER		Hearing Report and all appended information must be signed. Signature indicates finished report with appendices. COLE			

SEE APPENDICES

(CONT.)

DC-141
Rev. 6-84
DISCIPLINARY HEARING REPORT

PART II B

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

DC Number

Am9320

Name

IZLEY, CITARUS

Institution

SCFR

Hearing Date

0900

Hearing Time

9-3-95

INMATE
PLEA☐ Guilty☒ Not Guilty☐ No Plea☐ Other

Verdict

☒ Guilty☐ Not Guilty

CHARGES

12 count

HEARING ACTION

FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED

BECAUSE OF SUGG'S. ILEY NOTES THE MAY POSSIBLE
SUGG'S POSSIBLE INVOLVEMENT DOES NOT RULE
THE CREDIBILITY & RELIABILITY OF THE CSIS. THE
INFORMATION IS STILL RELIABLE & BELONGS OVER
IZLEY & HIS WITNESSES THAT MORE LIKELY THAN
AM9320 DID PARTICIPATE IN PLANNING (AS DOCUMENT
EARLIER) & DID ACT ON THAT PLAN BY STAYING
AT THE CELL DOOR. PREPONDERANCE OF EVIDENCE
STARR REPORT & C.S.I. IDENTIFICATION.

SANCTIONS ABOVE GOODMAN
DUE TO SERIOUS NATURE OF
M.C. & STARR'S INJURY TO
INMATE STARR

GUEST 12
90 DAYS DC
EFF 8-26-95

☒ YES ☐ NO
☒ YES ☐ NO
☒ YES ☐ NO
☒ YES ☐ NO

The inmate has heard the decision and has been told the reason for it and what will happen.
The circumstances of the charge have been read and fully explained to the inmate.
The opportunity to have the inmate's version reported as part of the record was given.
The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.

SEE APPENDICE

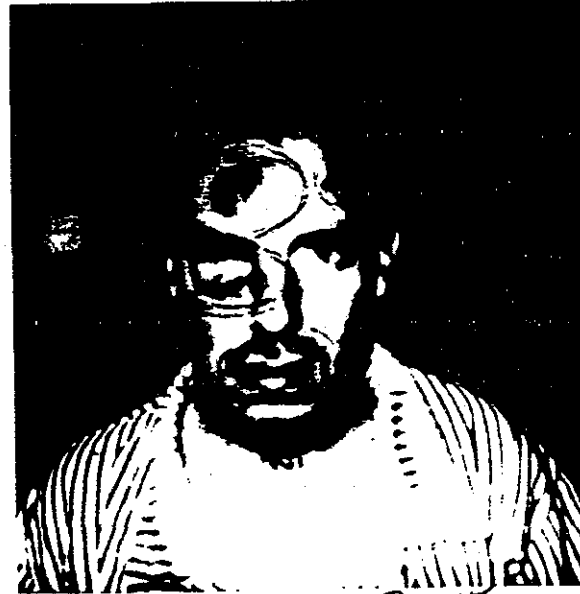
NAME(S) OF HEARING EXAMINER/COMMITTEE
(TYPED OR PRINTED)

CITARUS NOTE 1/4/96

Hearing Report and all appended information must be signed. Signatures indicate finished report with appendices.



CF 5358 Michael Smith
1850 hrs August 24, 1998



CF 5358 Michael Smith
1850 hrs August 24, 1998

MEDICAL INCIDENT/INJURY REPORT					
PERSON INVOLVED (Last Name)		(First Name)		(Middle Initial)	
Smith		Michael			
Male <input checked="" type="checkbox"/> Female <input type="checkbox"/>		Age 28		SSN: 187-58-3674	
Date of Incident 8-24-98		Time of Incident 12:30		Exact Location of Incident Bldg Cell 130	
INMATE <input checked="" type="checkbox"/>		Inst. No. CF5358		Housing Unit: A-130	
EMPLOYEE <input type="checkbox"/>		Department		Job Title	
VISITOR <input type="checkbox"/>		Home Address		Home Phone	
OTHER <input type="checkbox"/>		Occupation		Reason for Presence at this Facility	
Property Involved <input type="checkbox"/>		Equipment Involved <input type="checkbox"/>		Describe	
				N/A	
				Was person authorized to be at location of incident? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Describe Exactly What Happened. Why It Happened. Action Taken. If an Injury, State Part of Body Injured. If Property or Equipment Damaged.					
Describe Damage. 1. Description of Illness/Injury (5) "I fell out of bed I was sleeping rolled over."					
Brought to Treatment Bldg Dispensary by custody Lt. Facer to be evaluated					
(Continue on Reverse)					
Was Physician Notified? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		Was Family Notified? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
Was Person Involved Seen By A Physician? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		Date 8-24-98		Time 12:30	
				A.M. P.M.	
Was Person Involved Taken To A Hospital? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		Date 8-24-98		Time 12:30	
				A.M. P.M.	
Where		Physician's Name			
By Whom					
2. Initial Impression Illness/Injury		Indicate On Diagram Location of Injury			
2/11/96 R-11 Unalutah Diaper LOC, PERILY, Negro intact, skin w/o, color pink lungs clear all fields, & 4 SOB, abd soft BS & X 4 quarts & N/V Right eye lid swollen lower lid, hematoma Right cheek Visual acuity 0.5 20/40 O.D. 20/40 uncorrected wears Rx glasses - O.D. sclera white, & blood or discharge no c/o pain behind eye, EOM intact (cont) over		TYPE OF INJURY 1. Laceration <input type="checkbox"/> 2. Hematoma <input checked="" type="checkbox"/> 3. Abrasion <input type="checkbox"/> 4. Burn <input type="checkbox"/> 5. Non Apparent <input type="checkbox"/> 6. Other <input type="checkbox"/> Specify _____			
3. Treatment Rendered:		Exam, VS, Visual acuity, Tylenol 325 mg tid given			
Follow-Up		S/L 8-25-98 to be eval. / follow up in PA-C -			
Date of Report 8-24-98		Signature & Title of Person Preparing Report		Reviewing Authority	
		Samat		D. H. Henson RLS	

DISPOSITION AFTER TREATMENT:

1. Return to Block
2. Place in RHU
3. Admit to Infirmary
4. Admit to Community Hospital
5. Return to Work
6. Refer to Physician's Line
7. Refer to Family Physician
8. Refer to Community Hospital

1 ORAC

(Employee)

DISTRIBUTION:


Original: Medical File

Copies: Superintendent
 Deputy for Operations
 Deputy for Treatment
 Major
 Security Officer
 Other

CONTINUED FROM REVERSE: (Items 1 through 3) (Indicate Item).

#2 ②, hematoma of mid/Right side forehead & open areas, upper lip between nose/upper lip abrasion noted & bleeding noted, teeth/best denies jaw pain. Abrasion left posterior shoulder brush burn type & bleeding abrasion left mid/calf & drainage, c/o pain & palpation of areas of abrasions, & bony deformity noted.

(A) Alt Comfort

DC-141 Rev. 6-84 DISCIPLINARY HEARING REPORT		PART II B		COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS	
DC Number AM9230	Name Isley, Charles	Institution SCIR	Hearing Date 8-31-98	Hearing Time 1120	No. from A122000
INMATE PLEA	<input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty	<input type="checkbox"/> No Plea <input type="checkbox"/> Other	Verdict	<input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty	
HEARING ACTION					
CHARGES		RELIABILITY HEARING			
FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED					
<p>On 8-31-98 this Examiner conducted an IN-Camera hearing with Co3 Eaton to determine the reliability of the confidential of the confidential sources of information utilized in this misconduct report. The reliability hearing was conducted IN-Camera because the very nature the reliability evidence could, by itself, reveal the identity of the informants. CO3 Eaton provided this Examiner with a preponderance of evidence that the informants meet the criteria outlined under D.C.ADM 801, Reliability.</p> <p>Specifically, CO3 Eaton explained under oath <u>HOW</u> the informants were in a position to observe as well as what information they provided that was corroborated by others, and what information one provided in the past and how that information was proven to be reliable.</p> <p>THE INFORMANTS MEET THE RELIABILITY CRITERIA IN D. C. ADM. 801.</p>					
<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	The inmate has heard the decision and has been told the reason for it and what will happen.			SEE APPENDICES <input type="checkbox"/>
<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	The circumstances of the charge have been read and fully explained to the inmate.			
<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	The opportunity to have the inmate's version reported as part of the record was given.			
<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.			
NAME(S) OF HEARING EXAMINER/COMMITTEE (TYPED OR PRINTED)		Hearing Report and all appended information must be signed. Signature indicates finished report with appendices.			
Mr. Charles Mitchell		 SIGNATURE OF HEARING EXAMINER/COORDINATOR			

DC-141 PART II C COMMONWEALTH OF PENNSYLVANIA
 Rev. 6-84 HEARING SUPPLEMENT
 INMATE VERSION AND WITNESS STATEMENTS DEPARTMENT OF CORRECTIONS

DC Number	Name	Institution	No. from PAR
AM9320	CHARLES ISLEY	SCIR	A12200

INMATE'S VERSION

Prisoner Isley pleads not guilty to the charge for the following reasons and requests that medical/investigative and other reports be placed into evidence and included and identified on the record.

1. There is no evidence whatsoever in the report that Isley conspired with anyone or conspired to do any.
2. There is no evidence of assault because Smith has never stated that he was assaulted but has, in fact, adamantly denied to Lt. Eaton that he was assaulted and claims he received his injuries. If Smith were lying, then Eaton, the security Lt. who investigated this matter, would most assuredly have issued him a misconduct report for lying to an employee. Since such a report was not issued there is no evidence that an assault or conspiracy thereof occurred. Also, the 24 hour limit has elapsed.
3. The alleged "confidential source informants" are not credible. According to Eaton, as Gay and Scruggs will attest, she had well over ten informants who witnessed the alleged incident. Nonetheless, according to report, only two had similar stories. Two out of ten is not evidence of guilt but of incoherence.
4. The alleged informants are not credible because, according to the report, they witnessed the alleged incident but did not report it to the guard at the alleged scene and did not report it to prison officials until a week later, allegedly. Moreover, if Smith went to work that day then why was not his injuries seen?
5. The report is patently false because, according to it, the informants positively identified Isley and Gay on Aug. 24, 1992. However, on the 26th Isley, Gay, and Scruggs all received other reports he allegedly fighting Smith and Isley and Gay did not receive misconduct reports until the 31st. It is perfectly clear that these facts that no identification could have really occurred and ergo the report is obviously false.
6. There is no physical evidence of guilt. There is no such thing as brown work gloves and if they were brown gloves from commissary then they are so thin that it is axiomatic that, by the physical evidence of injuries to Smith, the antagonist's hands would have been bruised, swollen, or broken. However, neither Isley, Scruggs, or Gay had any marks or injuries. Moreover, the relevant "other report" received where he allegedly fighting Smith revealing the fact that Smith fought against his antagonist and must have injured him. No mask or gloves were found. Commissary gloves should be inspected. The informants' story is absurd because: Why would Gay wear mask and gloves and Isley why would they go into a cell with people right outside? Why would Gay remove his mask in front of everyone? What is the identity of the mysterious prison guard in the report who saw and heard nothing and the informants failed to inform? Why did Smith not cry out for help or in pain? Why does Smith claim he was not assaulted? Why were Isley, Scruggs, and Gay thrown in the hole for allegedly fighting Smith if the informants only saw Gay, as they claim? Since west wing just came back from lunch and the alleged incident occurred on the first level where everyone sits and hangs out until lockup, how come only people allegedly witnessed the supposed incident? Why was Lewis not heard until 5:30 pm?
7. It is clear from the above that the report is obviously, patently, and intentionally false and in violation of the Pa. Crimes Code. Isley did not see or hear anything and know anything because he was not present and had nothing to do with it. It could not have occurred!

DC-141 Rev. 6-84 INMATE REQUEST FOR REPRESENTATION AND WITNESSES		PART II A		COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS	
DC Number	Name	Institution	Date	Number as on P	
Am9320	CHARLES Isley	SCIR	8-31-98	A122000	
<p>You have been charged with a misconduct. You may request assistance and/or witnesses to appear at your hearing by completing the section(s) below.</p> <p>In order to have assistance or witnesses at your hearing, you must complete this form and present all copies to one of your housing officers no later than 9:00 a.m. the first working day after you receive notice of the misconduct.</p>					
<p>Assistance: <input type="checkbox"/> I do not request assistance <input type="checkbox"/> I request assistance by _____ (The person requested must be willing to assist you)</p> <p>Witnesses: You may request witnesses in accord with DC-ADM 801. State the relevance and importance of the testimony the witness will give.</p>					
<p>1. Name of Witness: <u>Gay</u> If Inmate No. <u>DA9752</u> Quarters <u>EWAL 37</u> Why is this person's testimony relevant and important? <u>Material witness to facts & codefendant</u></p>			<p>DO NOT WRITE IN THIS SECTION For Use by Hearing Examiner</p> <p>Witness permitted? <u>YES</u> If not, why not?</p>		
<p>2. Name of Witness: <u>Scruggs</u> If Inmate No. <u>AK9691</u> Quarters <u>EWAL 46</u> Why is this person's testimony relevant and important? <u>Material witness to facts & suspect</u></p>			<p>Witness permitted? <u>YES</u> If not, why not?</p>		
<p>3. Name of Witness: <u>Confidential Source Informant #105 of 106</u> If Inmate No. <u>?</u> Quarters <u>WW</u> Why is this person's testimony relevant and important? <u>Gave false statement implicating prisoner Isley</u></p>			<p>Witness permitted? <u>NO</u> If not, why not? <u>TO Avoid C.S.I.'s WOUND</u> <u>EDMONTY BOTIT TO THE INMATE</u> <u>WHOM IS CHARGED AN AN ASSISTANT.</u></p>		
<p><u>C. Isley</u> Inmate's Signature</p>			<p><u>Arrived After hearing completed</u> <u>ON 9-02-98 WITNESSES Arrived.</u> <u>Care.</u></p>		
<p>This section to be completed by Housing Officer only</p> <p>Received completed form <u>1716</u> hours <u>8-31-98</u> Time Date</p> <p><u>[Signature]</u> Housing Officer's Signature</p>			<p>Hearing Examiner's Signature</p>		

DC-141 PART II E
MISCONDUCT HEARING APPEALCOMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

DC Number AM9320	Name C. Isley	Institution Roxnew	No. from A1220
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I was found guilty of misconduct # A122000 on 980902 (date) by the Hearing Committee/Examiner, and I wish to appeal that decision on the following grounds:
Check Area(s) Involved

- a. The procedures employed were contrary to law, Administrative Directive 801, or to the ICU Consent Decree;
- b. The punishment is disproportionate to the offense;
- c. The evidence was insufficient to support the decision.



Below is a brief statement of the facts relevant to my claim(s). It includes the identity of all persons who may have information which may be helpful in resolving this matter.

1. I was never present at the reliability hearing and did not even know it occurred until I received a copy of the decision days later.
2. The hearing examiner found me guilty and sentenced me on 980902 even though the hearing and witnesses' testimony and my testimony did not occur until 980902.
3. The hearing examiner did not investigate or take into consideration any of the issues raised in my version form.
4. There was no evidence to support the false charge because even if it were true the conspiracy could have been for extortion, robbery, theft, harassment, intimidation, etc. No where in the report does it state that I conspired to do something and if so, how and what was involved.
5. The punishment is beyond the guidelines.
6. There was an active conspiracy to set me up for something I did not do.
7. The CSIs are not credible.
8. The hearing examiner found that I participated in the assault even though there is no evidence whatsoever to that effect.
9. When I informed the hearing examiner that I will see the board in January and that there was no evidence he told me that he did not care because he can just look at a nigger and tell he is guilty and that people like me should be killed.

Not Logged

FORM DC-141		PART I		COMMONWEALTH OF PENNSYLVANIA		A 121989	
Rev. 6-94		<input type="checkbox"/> MISCONDUCT REPORT <input checked="" type="checkbox"/> OTHER		DEPARTMENT OF CORRECTIONS			
DC Number	Name	Institution	Incident Time 24 Hr. Base	Incident Date	Date of Report		
AM-9320	Isley, Charles	SCIP	1800	8-26-98	8-26-98		
Quarters	Place of Incident						
AA/1045	N/A						
OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)							
DC Number	Name	I	W	DC Number	Name	I	W
MISCONDUCT CHARGE OR OTHER ACTION							
Other - Not A Misconduct							
STAFF MEMBER'S VERSION							
Inmate temporarily placed in DA/se pending investigation of possible involvement of a fight							
6 9-3-98							
IMMEDIATE ACTION TAKEN AND REASON							
Inmate Continued to Bldg 2 Sec A/A Pending Investigation.							
PRE-HEARING CONFINEMENT							
IF YES							
<input type="checkbox"/> YES	TIME	DATE					
<input type="checkbox"/> NO	1815	8/26/98					
REPORTING STAFF MEMBER SIGNATURE AND TITLE			ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY SIGNATURE AND TITLE			DATE AND TIME INMATE GIVEN C	
J.L. Barnes COTI			H. Carlson COTI			8-26-98 2010	
YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER DATE			Misconduct Category			Signature of Person Serving Not	
Other			<input type="checkbox"/> CLASS I <input type="checkbox"/> CLASS 2			New York CE	
NOTICE TO INMATE							
You are scheduled for a hearing on this allegation on the date and the time indicated or as soon thereafter as possible. You may remain silent, if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class I misconduct, any pre-release status you have will be revoked.							

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES ISELEY,

Plaintiff

v.

W. CONWAY BUSHEY, et al.,

Defendants

:
:
:
:
:
:
:
:

No. 1:00-CV-00577

UNSWORN DECLARATION OF RICHARD SPAIDE

I, **RICHARD SPAIDE**, hereby declare under the penalty of perjury that the following is true and correct based upon my personal knowledge:

1. I am currently employed by the Pennsylvania Department of Corrections ("DOC") as a Corrections Unit Manager at State Correctional Institution Mahanoy ("SCI-Mahanoy") in Frackville, Pennsylvania. I have been employed by the DOC for 15 years. At the time relevant to this complaint I was a Unit Manager of modular unit "T", at SCI-Mahanoy.

2. As Unit Manager, I had overall responsibility for the management of the modular units. I was part of the management team that included the corrections officers, therapists and counselors that worked on the unit. On occasion, I sit on the SCI-Mahanoy Program Review Committee, reviewing misconduct report appeals.

5. In December of 1998, Iseley's appealed Misconduct Report No. A110205 to the Program Review Committee, ("PRC"). While I do not recall my actual review of the misconduct, attached as Exhibit "A" is a copy of the PRC decision and rationale, which contains my signature as well as the other members of the PRC who reviewed Iseley's appeal. (See Exhibit "A" attached).

6. According to the report, the PRC reviewed the available information concerning the misconduct, including the report of the Unit Manager Chesney, the findings of the hearing examiner and Iseley's appeal. The PRC sustained the hearing examiners decision. (Id.)

7. The PRC decision to sustain the hearing examiner's decision regarding Misconduct Report No. A 110205 was based upon the review of the relevant documentation, evidence, reports and documentation. The PRC decision was not based upon any discriminatory or retaliatory motive.

6-8-01
DATE


RICHARD SPAIDE

EXHIBIT "A"

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

DC-141 Part III

Program Review Committee

☒ Misconduct Appeal☐ Periodic Review☐ Other

DC Number AM9320	Name Isley, Charles	Institution SCI Mahanoy	Date of Review 12/30/98	Misconduct # A110205
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PROGRAM REVIEW COMMITTEE'S DECISION AND ITS RATIONALE

Inmate Isley appeals based on:

- a. The procedures employed were contrary to law, Administrative Directive 801, or to the ICU Consent Decree;
- c. The evidence was insufficient to support the decision.

The PRC has reviewed the available information concerning this misconduct including the report of Unit Manager Chesney, the findings of the Hearing Examiner, and inmate Isley's appeal.

Inmate Isley appeals that procedures employed were contrary to law, ADM 801, or the ICU Consent Decree. PRC finds nothing to support this appeal.

Inmate Isley also appeals that evidence was insufficient to support the decision. PRC notes that there was no new legitimate evidence to indicate a change of the Hearing Examiner's decision.

DECISION RELATIVE TO HEARING EXAMINER'S VERDICT

☐ Not Applicable ☒ Sustain ☐ Amend ☐ Refer Back for Further Study ☐ Exonerate

Names of Program Review Committee	Signatures	Date
Marva Cerullo, CHCA	<i>Marva Cerullo</i>	12/31/98
Robert Yarnell, Food Services Manager	<i>Robert Yarnell</i>	12/31/98
Richard Spaide, Unit Manager	<i>Richard Spaide</i>	12-31-98

FORM DC-141 Rev. 6-84		PART I		COMMONWEALTH OF PENNSYLVANIA		A 110205	
<input checked="" type="checkbox"/> MISCONDUCT REPORT <input type="checkbox"/> OTHER		DEPARTMENT OF CORRECTIONS					
DC Number AM9320	Name Isley, Charles	Institution SCI MAH	Incident Time 24 Hr. Base 1420	Incident Date 12/14/98	Date of Report 12/14/98		
Quarters JA1015	Place of Incident Unit Managers Office						
OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)							
DC Number	Name	I	W	DC Number	Name	I	W
MISCONDUCT CHARGE OR OTHER ACTION Class 1, b, 7 Refusing to Obey an Order Class 1, c, 22 Using Abusive or Obscene Language to an Employee							
STAFF MEMBER'S VERSION Inmate Isley, AM9320 Came to my office to ask permission to go to commissary because he had no money on his account on Friday. I told him no and he became argumentative. I ordered him to leave my office. He continued to argue with me and began using obscene language "You let these other mother fuckers go. Why the fuck can't I go." I again ordered Mr Isley to leave my office. He then looked at me and said "you're a real goofball." I ordered him a third time to leave my office. He finally complied.							
PHK							
IMMEDIATE ACTION TAKEN AND REASON Continue present status pending Further Action by the Hearing Examiner.							
PRE-HEARING CONFINEMENT							
IF YES							
<input type="checkbox"/> YES	TIME	DATE					
<input checked="" type="checkbox"/> NO	N/A	N/A					
REPORTING STAFF MEMBER SIGNATURE AND TITLE Thomas Cherry U.M.				ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY CUTV HA Byr		DATE AND TIME INMATE GIVEN COPY DATE 12-14-98 TIME 24 HOUR BAS 1730	
YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER DATE 12/16/98 TIME 0800				Misconduct Category <input checked="" type="checkbox"/> CLASS 1 <input type="checkbox"/> CLASS 2		Signature of Person Serving Notice Co. D. Leachey LEACHEY	
NOTICE TO INMATE							
You are scheduled for a hearing on this allegation on the date and the time indicated or as soon thereafter as possible. You may remain silent, if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class I misconduct, any pre-release status you have will be revoked.							

DC-141

PART II A

COMMONWEALTH OF PENNSYLVANIA

Rev. 6-84

INMATE REQUEST FOR
REPRESENTATION AND WITNESSES

DEPARTMENT OF CORRECTIONS

DC Number AM 9320	Name Isley, Charles	Institution SCIMAH	Date 12-14-98	Number as on Par A110205
-----------------------------	-------------------------------	------------------------------	-------------------------	------------------------------------

You have been charged with a misconduct. You may request assistance and/or witnesses to appear at your hearing by completing the section(s) below.

In order to have assistance or witnesses at your hearing, you must complete this form and present all copies to one of your housing officers no later than 9:00 a.m. the first working day after you receive notice of the misconduct.

Assistance: ☐ I do not request assistance
☐ I request assistance by _____
(The person requested must be willing to assist you)

Witnesses: You may request witnesses in accord with DC-ADM 801. State the relevance and importance of the testimony the witness will give.

1. Name of Witness: **2-10 Sgt on JA on 981214** If Inmate No. Quarters
Why is this person's testimony relevant and important?
Involved in incident alleged

2. Name of Witness: **C.O. Sausser** If Inmate No. Quarters
Why is this person's testimony relevant and important?
Involved in incident alleged

3. Name of Witness: **C.O. Leachey** If Inmate No. Quarters
Why is this person's testimony relevant and important?
Involved in incident alleged

DO NOT WRITE IN THIS SECTION
For Use by Hearing Examiner

Witness permitted? If not, why not?

Witness permitted? If not, why not?

Witness permitted? If not, why not?

C. Isley
Inmate's Signature

R. Brien
Hearing Examiner's Signature

This section to be completed by Housing Officer only

Received completed form **0755** hours **12/15/98**
Time Date

Abraham Sausser
Housing Officer's Signature

DC-141
Rev. 6-84

PART II B

DISCIPLINARY HEARING REPORT

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

DC Number

AM9320

Name

Isley

Institution

SLDMH

Hearing Date

12/16/98

Hearing Time

1005

INMATE
PLEA☐ Guilty
☒ Not Guilty☐ No Plea
☐ Other

Verdict

☒ Guilty
☐ Not Guilty

CHARGES

B#7

C#22

HEARING ACTION

FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED

At Belmar offices/Unit Mgr's Rep. Inmate
Inmate Plea and Version - At Mats, he
Version never really addresses the issue
But deals with the Pretense of retaliation
his filing grievances etc. At Belmar, he
Isley did refuse orders to leave Unit Mgr's
office after being told "No" to his request for
Commissary Pass to Shop after the Black
Scheduled Day. At Belmar, repeated orders
were issued prior to Inmate finally complying
and leaving the office.

Sanction:
30 Days DC
12/16/98

☒ YES☐ NO☒ YES☐ NO☒ YES☐ NO☒ YES☐ NO

The inmate has heard the decision and has been told the reason for it and what will happen.
The circumstances of the charge have been read and fully explained to the inmate.
The opportunity to have the inmate's version reported as part of the record was given.
The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.

NAME(S) OF HEARING EXAMINER/COMMITTEE
(TYPED OR PRINTED)

K. Brown

Hearing Report and all appended information must be signed and dated. Inmate's finished report with appendices.

SEE APPENDICES

DC-141 PART II C
Rev. 6-84 HEARING SUPPLEMENT
INMATE VERSION AND WITNESS STATEMENTS

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

DC Number	Name	Institution	No. from PART I
AM 9320	Isley, Charles	SCIMAH	A110205

INMATE'S VERSION

Prisoner Isley pleads not guilty to both charges. He never used any abusive or obscene language and was never ordered to leave the office (even if he were, there is no evidence to support the charge of refusing to obey an order since the false misconduct report clearly stated that he complied with the order).

On the date in question prisoner Isley asked Chesney to go to commissary since it was make up day because he was just transferred to this prison and his money had only just arrived on Thursday. However, Chesney denied the request stating that the only excuse for not going on Friday is being on a visit. When Isley pointed out that he was aware of the fact Chesney had permitted other prisoners to go that day without any valid excuse, Chesney stated "So what. You like filing grievances. You like filing lawsuits. I guarantee you won't be in my back much longer. You're a troublemaker. You should never have been released from the RTHU..." Prisoner Isley just left as Chesney continued talking and subsequently asked prison guard Leachey and the 2-10 p.m. Sgt if he could go to the store. Isley asked Savasser, Chesney, Leachey, and the Sgt in that order.

The testimony of the prison guards will reveal that at no time was Isley disrespectful or argumentative to any of them, request.

Prisoner Isley wishes for the two grievances ^{and request} he filed against Chesney to be offered into evidence and in the record as well as the list of inmates who went to commissary on 9/12/04 from VA. It is a fact that one prisoner (Giggins) got out of the hole on Saturday and was permitted to go to commissary as well as laundry workers whose pay was not on Friday.

It is perfectly clear from the facts that Chesney fabricated the false charges against Isley in retaliation for his filing grievances/lawsuits in order to have Isley thrown in the hole and denied parole (he is scheduled to see the board in February).

In essence there is no evidence to support the charge of refusing to obey an order because even if the false report were true it clearly stated that Isley complied. There is no evidence to support the charge of using abusive or obscene language because the preponderance of the evidence clearly shows that Isley spoke to other prison guards before and after Chesney and made no such statements and was not argumentative and the evidence of retaliation against Isley from Chesney clearly shows, from the grievances and request, that the charges are utterly false. Lastly, Isley is a Black man from Philly. He would have said not "not football" and, in any event, the alleged statement is neither abusive or obscene.

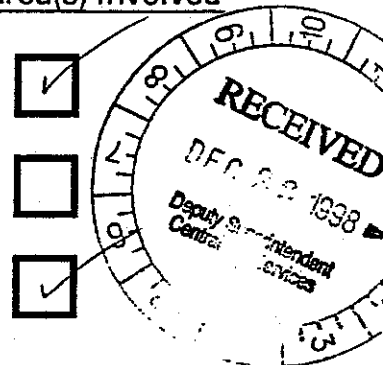
781228

DC-141 PART II E
MISCONDUCT HEARING APPEALCOMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

DC Number	Name	Institution	No. from PART I
AM-9320	C. Isley	Mahany	A110205

I was found guilty of misconduct # A110205 on 98/2/6 (date) by the Hearing Committee/Examiner, and I wish to appeal that decision on the following grounds:
Check Area(s) Involved

- a. The procedures employed were contrary to law, Administrative Directive 801, or to the ICU Consent Decree;
- b. The punishment is disproportionate to the offense;
- c. The evidence was insufficient to support the decision.



Below is a brief statement of the facts relevant to my claim(s). It includes the identity of all persons who may have information which may be helpful in resolving this matter.

1. There was no evidence to support the charge. The false and retaliatory report clearly state that I complied with the alleged order.

2. The H.E. was biased. This is clear and obvious in the fact that he did not take my defense into consideration at all. It is a fact that it was makeup day for commissary for my block (actually the entire prison) and that other prisoners went on the day in question. Despite these facts, the H.E. erroneously and intentionally ruled that the day in question was not a normally scheduled makeup commissary day for my block. He also did not consider any of the facts which established that the report was retaliatory in nature and utterly false.

3. The H.E. refused to allow me to offer any evidence (documents, etc.) to support the defense of a fabricated and false retaliatory report.

4. The H.E. refused to call any of my witnesses.

5. The H.E. erroneously ruled that I never addressed the incident but my written version pellucidly reveals that he is a vicious liar and just refused to even take my written version into account.

6. The H.E.'s blatant bias is evident in the fact that he ruled that I complied with the order but he still found me guilty. He did so in order to cover for Chesney and to keep me in prison for several more years for nothing.

7. The H.E. ruled that I refused "orders" but never states which one and, in any event, ruled that I complied.

8. Chesney and the H.E. have violated my rights by retaliating against me for filing grievances/lawsuits and the H.E. blatantly violated my hearing rights.



**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES ISELEY,

Plaintiff

v.

W. CONWAY BUSHEY, et al.,

Defendants

:
:
:
:
:
:
:
:
:
:
:

No. 1:00CV-00577

UNSWORN DECLARATION OF JAMES UNELL

I, JAMES UNELL, hereby declare under the penalty of perjury that the following is true and correct based upon my personal knowledge:

1. I am currently and at all times relevant to the allegations in the complaint, employed by the Pennsylvania Department of Corrections ("DOC") Corrections Classification and Program Manager at State Correctional Institution Mahanoy ("SCI-Mahanoy") in Frackville, Pennsylvania.

2. As Corrections Classification and Program Manager, I supervise Department Heads Centralized Services Area, Records, Chaplain, Inmate Employment, Drug and Alcohol Treatment, Activities, Education and Psychology. Also, I am a regular member of the Program Review Committee.

3. In January, 1999, I received a copy of Inmate Grievance No. MAH 002-99, from the Grievance Coordinator. After a review of Iseley's grievance, I spoke to Iseley in the Restricted Housing Unit regarding the grievance. Iseley admitted to me that Mr. Dennison did not introduce himself as a Parole Board Member; rather it was only his assumption. (See Exhibit "A" attached).

4. I also interviewed Mr. Youron, Chief Psychologist who informed me that in December, 1998, Iseley wrote him and requested that his consent be revoked and that the original document be returned to him. I learned that Youron wrote back to Iseley and informed him that his consent was revoked, and returned the original document to him. (Id.)

5. At the January 14, 1999, meeting, Iseley admitted to me that he did receive the original document. I also checked Iseley's DC014 (Treatment file) and an entry was made indicating that Iseley revoked his consent. (Id)

6. After I addressed Iseley's grievance, I recommended no further action be taken regarding this grievance to the Grievance coordinator. Iseley received a copy of my initial review of the grievance. (Id)

June 8, 2001
DATE

James Unell
JAMES UNELL

EXHIBIT "A"

DC-135A

RECEIVED

INMATE'S REQUEST TO STAFF MEMBER 1999

SUPERVISOR

OFFICE

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

INSTRUCTIONS

Complete Items Number 1-7. If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently.

1. TO: (NAME AND TITLE OF OFFICER)

Dragovich, warden

2. DATE

990123

3. BY: (INSTITUTIONAL NAME AND NUMBER)

C. Isley AM-9320

4. COUNSELOR'S NAME

Nil

5. WORK ASSIGNMENT

Nil

6. QUARTERS ASSIGNMENT

IB-16

7. SUBJECT: STATE COMPLETELY BUT BRIEFLY THE PROBLEM ON WHICH YOU DESIRE ASSISTANCE. GIVE DETAILS.

I wish to appeal grievances MAH-0002-99 and MAH-0011-99. The former is appealed because Dennison misrepresented himself to me and told me that I had to sign the form to be reviewed for parole - which was not true. Unell did not explain anything to me save for that the parole board and prison will draw negative inferences from my refusal. The psychology staff did not tell me anything as the only one I saw was Dennison. You should have informed the board why I refused to sign.

The latter grievance is appealed because I asked Cerullo the proper procedure to follow for the relevant referrals to be procured. However, she told me that they could not. Now she says something different. I have already signed up for sick call and was told I would be placed on the list to see the optometrist and ophthalmologist (I was scheduled to see an ophthalmologist in February at Rockview prison). I do not believe the grievance should have been sent to her since it was filed on her.

8. DISPOSITION: (DO NOT WRITE IN THIS SPACE)

☐ TO DC-14 CAR ONLY☐ TO DC-14 CAR AND DC-15 IRS

STAFF MEMBER

DATE

DC-804

PART II

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001

SCI MAHANAY
RECEIVED

JAN 06 1999

INMATE PROGRAM MANAGER

OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO. MAH-0002-99

TO: (Name & DC NO.) ISLEY, CHARLES AM-9320	INSTITUTION SCI-MAHANAY	QUARTERS RHU	GRIEVANCE DATE 1/06/99
---	----------------------------	-----------------	---------------------------

The following is a summary of my findings regarding your grievance:

This is in response to Grievance No. MAH-0002-99. I note that I spoke with you at length regarding this grievance in our meeting in the RHU on 1/14/99. I note the following: You acknowledged during our meeting that Mr. Dennison did not introduce himself as a Parole Board member. It was your assumption that he worked for the PBPP. You are now well aware that he is a Psychological Services Associate and a member of the Psychology Department. It is noted that Mr. Dennison presented a mental health informed consent document to you on 12/17/98. At that time you decided to sign the form after it was reviewed. On 12/24/98 you wrote a request to Mr. Youron, Chief Psychologist requesting that your consent be revoked and that the original document be returned to you. In response to your request slip, dated 12/24/98, Mr. Youron wrote back to you and informed you that your consent was, in fact, revoked. You acknowledged to me on 1/14/99 that you did receive the original document. Also, I note that a DC-14 entry was made indicating that you had revoked your consent. Be informed then, that at this point in time, we do not have your consent regarding the mental health informed consent policy/document.

In accordance with the policy 7.3.1, I cautioned you that recipients of the reports (e.g.: staffing committees and the Parole Board) "may draw negative inferences" from your refusal. The psychology staff also gave you such counsel. I also explained to you the significance of your refusal and the impact of it. I remind you also that you may decide to give your consent at a later point in time. You stated that you fully understood our conversation. You also stated that you still wish to refuse to sign the mental health informed consent document.

In that all of the elements of your grievance have been fully addressed, I recommend no further action regarding this grievance.

rh/

cc: Deputy Klem
Mr. Youron
Mr. Dennison
file

Refer to DC-ADM 804, Section VIII,
for instructions on grievance
system appeal procedures.

SIGNATURE OF GRIEVANCE Officer

James Drnell

DATE

1/14/99

C-804
RT 1COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598SCI MAHANAY
RECEIVED

JAN 06 1999

INMATE PROGRAM MANAGER

GRIEVANCE NO.

MAH-0002-99

OFFICIAL INMATE GRIEVANCE

GRIEVANCE COORDINATOR <i>Dotter</i>	INSTITUTION <i>Mahanoy</i>	DATE <i>990103</i>
COM: (Commitment Name & Number) <i>C. Isley AM-9320</i>	INMATE'S SIGNATURE <i>C. Isley</i>	
WORK ASSIGNMENT <i>Nil</i>	QUARTERS ASSIGNMENT <i>RTU C-9</i>	

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

Brief, clear statement of grievance:

A person by the name of Dennison misrepresented himself to me in order to trick me into signing the Mental Health Informed Consent Document. He stated that I had to sign it to be evaluated for parole pursuant to the "Quotia" litigation. I have since ascertained that he is not employed by the parole board and that I was not required to sign anything for parole evaluation. Consequently, I want the original of the document and any and all copies as I do not give permission for anything and my signature is invalid as it was attained illegally.

Actions taken and staff you have contacted before submitting this grievance:

Actions taken: Contacted staff
Staff contacted: Brown, Youcon

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Signature of Grievance Coordinator

Date

1/4/99

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES ISELEY,

Plaintiff

v.

W. CONWAY BUSHEY, et al.,

Defendants

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:
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:
:

**No. 1:00-CV-00577
(Judge Kane)**

**UNSWORN DECLARATION OF
TERRY WHITMAN**

I, **Terry Whitman**, hereby state under penalty of perjury that the following is true and correct and based upon my personal knowledge:

1. I am presently employed by the Commonwealth of Pennsylvania, Department of Corrections ("DOC") as one of the Deputy Superintendents of the State Correctional Institute at Rockview ("SCI-Rockview"). I have held this position since July, 1995. In addition, I have been employed by the DOC for twenty-nine years.

2. As Deputy Superintendent for Centralized Services, my duties and responsibilities include overseeing and supervising various departments of the prison, including but not limited to the culinary department, correctional industries, the records department, activities staff, the drug and alcohol staff, psychological and medical

department and the religious programming. In addition, I am a member of the prison's Program Review Committee.

3. As Deputy Superintendent for Centralized Services, I am a member of SCI-Program Review Committee ("PRC"). As a member of the PRC I review inmates appeals concerning their misconducts, and have occasion to interview inmates who are housed in disciplinary custody in the Restricted Housing Unit ("RHU").

4. While at SCI-Rockview, inmate Charles Iseley's prescriptive program plan recommended education and vocational programming, drug and alcohol programming and therapeutic community unit programming. The plan also recommended that Iseley remain misconduct free. (See Exhibit "A" attached.).

5. As a member of the PRC, I received Iseley's appeal of Misconduct No. A122000, Conspiracy to Commit Aggravated Assault, on September 10, 1998.

6. Members of the PRC who received Misconduct No. A122000 were Deputy Superintendent David Wakefield and Classification and Program Manager Gregory Gaertner and myself (Id.)

7. As a member of the PRC, I thoroughly reviewed the misconduct report, the hearing examiner's report and the information and documentation regarding the reliability hearing. I also reviewed Iseley's version, the issues he raised in the appeal and the various documentation associated with the hearing.

8. I reviewed the hearing examiner's finding based upon the reliability of the investigation of Lt. Eaton and the reliability of the confidential source of information.

9. The PRC further noted the extensive documentation that the hearing examiners efforts to afford Iseley the opportunity to defend himself. The PRC also noted Iseley's allegation of a racial statement by Mitchell and recommended further investigation.

10. Upon thorough review of the documentation and information regarding Misconduct No. A122000, the PRC sustained the hearing examiner's decision in full.

11. The PRC's decision to sustain the hearing examiner's decision regarding Misconduct No. A122000 was based review of the relevant documentation, evidence, reports and information.

Date

TERRY WHITMAN

JUN-01-01 FRI 08:32

ATTORNEY GENERAL

FAX NO. 717 772 4526

P. 05/08

6/1/01
Date


TERRY WHITMAN

EXHIBIT "A"

MAY-25-00 THU 11:15

P. 02

DC-43 PRESCRIPTIVE PROGRAM PLAN		COMMONWEALTH OF PENNSYLVANIA Department of Corrections													
DC NUMBER AM 9320	NAME Isley, Charles W	INSTITUTION SCIR	DATE INITIATED 9/26/97												
<p>AREAS OF CONCERN</p> <table border="0"> <tr> <td><input type="checkbox"/> Mental Health</td> <td><input type="checkbox"/> Physical</td> <td><input checked="" type="checkbox"/> Assaultiveness</td> </tr> <tr> <td><input type="checkbox"/> Vocational</td> <td><input checked="" type="checkbox"/> Drug</td> <td><input type="checkbox"/> Sexual</td> </tr> <tr> <td><input type="checkbox"/> Academic</td> <td><input checked="" type="checkbox"/> Alcohol</td> <td><input type="checkbox"/> Escape</td> </tr> <tr> <td><input type="checkbox"/> Other</td> <td></td> <td></td> </tr> </table>				<input type="checkbox"/> Mental Health	<input type="checkbox"/> Physical	<input checked="" type="checkbox"/> Assaultiveness	<input type="checkbox"/> Vocational	<input checked="" type="checkbox"/> Drug	<input type="checkbox"/> Sexual	<input type="checkbox"/> Academic	<input checked="" type="checkbox"/> Alcohol	<input type="checkbox"/> Escape	<input type="checkbox"/> Other		
<input type="checkbox"/> Mental Health	<input type="checkbox"/> Physical	<input checked="" type="checkbox"/> Assaultiveness													
<input type="checkbox"/> Vocational	<input checked="" type="checkbox"/> Drug	<input type="checkbox"/> Sexual													
<input type="checkbox"/> Academic	<input checked="" type="checkbox"/> Alcohol	<input type="checkbox"/> Escape													
<input type="checkbox"/> Other															
<p>RECOMMENDED ACTIONS (The following is a list of suggested programs and/or kinds of behavior which may help you with the weakness and/or problem areas):</p> <ol style="list-style-type: none"> 1. Remain Misconduct free 2. Education (Mr. Rossman) 3. Vocational Training (Mr. Giffman) 4. Drug/Alcohol Evaluation - Therapy as prescribed (see your counselor) 5. TCU - (see your counselor) 6. Maintain contact with your counselor 															
<p><u>[Signature]</u> Signature of Staff Member</p>		<p><u>Refused to Sign</u> Signature of Inmate</p>													
<p>Tentative Progress Review (date) <u>12/97</u></p>															
<p>RESULTS ACHIEVED or reasons for lack of results</p> <ul style="list-style-type: none"> - Misconduct Free. - None for 2d or 3d - No DEA - No TCU - Has Not maintained contact with staff. 															
<p><u>[Signature]</u> Signature of Staff Member</p>		<p><u>4-1-98</u> Date Reviewed</p>	<p><u>No Show</u> Signature of Inmate</p>												

The two lists are not all inclusive and may change over time. Additional weaknesses and/or problem areas may be uncovered. Weaknesses and/or problem areas may be overcome or reduced in importance. Programs may be completed or additional programs may be indicated. These lists can and should be reviewed periodically to account for any progress or lack of progress. You should request a review through your Counselor to discuss any changes and to keep your prescriptive program current.

While all participation in all programs is strictly voluntary, progress or lack of progress in dealing with weaknesses and/or problem areas will be one of the factors taken into consideration for all actions requiring staff support such as recommendations for program level changes, job changes, pre-release, commutation, and parole.

MAY-25-00 THU 11:17

DC-43

COMMONWEALTH OF MASSACHUSETTS

P. 03

PRESCRIPTIVE PROGRAM PLAN

Department of Corrections

DC NUMBER	NAME	INSTITUTION	DATE INITIATED
AM 9320	Charles Isley	Roe	4-1-

AREAS OF CONCERN

- | | | |
|--|---|--|
| <input type="checkbox"/> Mental Health | <input type="checkbox"/> Physical | <input checked="" type="checkbox"/> Assaultiveness |
| <input checked="" type="checkbox"/> Vocational | <input checked="" type="checkbox"/> Drug | <input type="checkbox"/> Sexual |
| <input type="checkbox"/> Academic | <input checked="" type="checkbox"/> Alcohol | <input type="checkbox"/> Escape |
| <input type="checkbox"/> Other | | |

RECOMMENDED ACTIONS

(The following is a list of suggested programs and/or kinds of behavior which may help you with the weakness and problem areas):

- Remain Misconduct Free
- Ed/Voc programming
- DEA programming
- TCU programming

[Signature]
Signature of Staff Member

No Show
Signature of Inmate

Tentative Progress Review (date) 4-1-98

RESULTS ACHIEVED or reasons for lack of results

Signature of Staff Member

Date Reviewed

Signature of Inmate

The two lists are not all inclusive and may change over time. Additional weaknesses and/or problem areas may be uncovered. Weaknesses and/or problem areas may be overcome or reduced in importance. Programs may be completed or additional programs may be indicated. These lists can and should be reviewed periodically to account for any progress or lack of progress. You should request a review through your Counselor to discuss any changes and to keep your prescriptive program current.

While all participation in all programs is strictly voluntary, progress or lack of progress in dealing with weaknesses and/or problem areas will be one of the factors taken into consideration for all actions requiring staff support such as recommendations for program level changes, job changes, pre-release, commutation, and parole.

WHITE-DC-15

YELLOW-Inmate After Progress Review

PINK-Other

GOLDENROD-Inmate When Initiated

EXHIBIT "B"

SCIR-141 III

COMMONWEALTH OF PENNSYLVANIA

☒ MISCONDUCT APPEAL ☐ PERIODIC REVIEW ☐ OTHER

DEPARTMENT OF CORRECTIONS

DC NUMBER	NAME	INSTITUTION	DATE OF REVIEW	NO. FROM PART
AM9320	Charles Isley	ROC	09-10-1998	A122000

PROGRAM REVIEW COMMITTEE'S DECISION AND ITS RATIONALE

Mr. Isley was found guilty on 09-03-1998 of a Class I-B #12, Violation of PA Crimes Code not in Category I, 903 Criminal Conspiracy to commit aggravated assault. He received a sanction of ninety (90) days disciplinary custody. He is now appealing the Hearing Examiner's decision based upon his belief that the procedures employed were contrary to law or Administrative Directive 801, the punishment disproportionate to the offense, and the evidence was insufficient to support the decision.

In his appeal, Mr. Isley states that he was not present at the Reliability Hearing and did not know it occurred until later when he received his copy. He also states that he was sentenced on September 2 even though his testimony did not occur until September 3. He also states the Hearing Examiner did not take into consideration his issues and, in fact, does not believe there is sufficient documentation to support the charge or the decision. He also notes the punishment is beyond the guidelines and that there is a conspiracy to set him up. He states the confidential informants were not credible. Finally, he states that the Hearing Examiner was racially prejudiced.

In reviewing Mr. Isley's appeal as well as various documentation associated with the proceedings, PRC notes that the Hearing Examiner conducted the Reliability Hearing and provided a sanction, which was beyond the guidelines but met Administrative Directive 801 policy. The Hearing Examiner can provide a sanction beyond the presumptive range provided he give a rationale, which in this case was based on the extent of injury to the victim which was verified through a medical report. The final basis for the decision was the credibility of the investigation of Lt. Eaton, including the reliability of the CSIs over Mr. Isley and his witnesses. Such a determination is within the purview of the Hearing Examiner and sufficient basis for a decision of guilt. PRC notes that the Hearing Examiner did conduct a hearing on 09-03-1998 with Mr. Isley in which he took testimony from Mr. Isley. At that time, there was no Witness Form available nor was there any indications noted from Mr. Isley that witnesses were involved. The Hearing Examiner did continue processing his Findings of Fact and arrived at a verdict. However, before giving the actual verdict, a Witness Form which was properly executed came to the Hearing Examiner's attention. At that time, he decided to continue the hearing to take additional testimony from Mr. Isley and his two witnesses. Mr. Isley did request the CSIs, however, they were not allowed. In taking additional testimony on 09-03-1998, the Hearing Examiner expanded his Findings of Fact. However, he did come to the same conclusion that Mr. Isley did participate as a conspirator in the aggravated assault on Michael Smith. Again, the evidence used to support the Hearing Examiner's decision was within the guidelines of Administrative Directive 801.

Mr. Isley also noted possible racial prejudice in an alleged statement made by Mr. Mitchell at the hearing. While PRC does not conduct any such statements and is recommending further investigation of this by Security staff, there is extensive documentation that the Hearing Examiner afforded Mr. Isley the opportunity to defend himself within the 801 guidelines. Furthermore, the Hearing Examiner also was intent on carrying out such guidelines in the conduct of the initial hearing and the continuation to hear additional testimony. Mr. Isley was not found guilty on 09-02-1998. He was found guilty on 09-03-1998. He was provided all the information as per the 801 guidelines. PRC sustains the Hearing Examiner's decision in full.

DECISION RELATIVE TO HEARING COMMITTEE'S VERDICT

☐ NOT APPLICABLE ☒ SUSTAIN ☐ SUSTAIN-AMEND ☐ REFER BACK FOR FURTHER STUDY ☐ EXONERATE INMATE

NAMES OF PROGRAM REVIEW COMMITTEE MEMBERS	SIGNATURES	DATE
D. J. Wakefield	<i>D. J. Wakefield</i>	9-10-98
T. L. Whitman	<i>T. L. Whitman</i>	9/10/98
G. P. Gaertner	<i>G. P. Gaertner</i>	9/10/98

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES ISELEY,

Plaintiff

v.

W. CONWAY BUSHEY, et al.,

Defendants

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**No. 1:00CV-00577
(Judge Kane)**

UNSWORN DECLARATION OF ROBERT YARNELL

I, **ROBERT YARNELL**, hereby declare under the penalty of perjury that the following is true and correct based upon my personal knowledge:

1. I am currently employed by the Pennsylvania Department of Corrections, ("DOC") as the Correctional Food Service Manager at State Correctional Institution Mahanoy ("SCI-Mahanoy") in Frackville, Pennsylvania. I have been employed by the DOC for 14 years. At the time relevant to this complaint I was a Correctional Food Service Manager.

2. As Food Service Manager, I am responsible for the overall operation of the Food Service Department at SCI-Mahanoy, which includes but is not limited to planning menus, supervision of employees, food handling and sanitation. On

occasion, I sit on the SCI-Mahanoy Program Review Committee, reviewing misconduct report appeals.

3. As Food Service Manager, I am aware that some inmates elect to eat the protein menu substitute rather than what is provided on the master menu, for religious reasons. DC-ADM 819-3 provides that an exception to the master menu can be made for religious reasons. Inmates at SCI-Mahanoy who wish to receive the alternate protein menu for religious reasons simply submit a request slip to the Food Services Department. If an inmate is not on a any particular prescribed diet, he is permitted to receive the alternate protein menu.

4. In December of 1998, I was contacted by Carol Dotter, Grievance Coordinator at SCI-Mahanoy to review an Inmate Grievance submitted by Charles Iseley. After I received the Grievance, I checked my records and could not locate any request from Iseley requesting the protein alternative. I responded to Iseley's Grievance on January 4, 1999 and advised him that if he will be allowed to receive the protein alternative, if he signs up for the program. (See Exhibit "A" attached)

5. In December of 1998, Iseley's appealed Misconduct Report No. A110205, Refusing To Obey an Order, Using Obscene Language, to the Program Review Committee, ("PRC"). While I do not recall my actual review of the misconduct, attached as Exhibit "B" is a copy of the PRC decision and rationale,

which contains my signature as well as the other members of the PRC who reviewed Iseley's appeal. (See Exhibit "B" attached).

6. According to the report, the PRC reviewed all the available information concerning the misconduct, including the report of the Unit Manager Chesney, the findings of the hearing examiner and Iseley's appeal. The PRC found nothing to support Iseley's appeal and therefore sustained the hearing examiners decision. (Id.)

7. My decision to sustain the hearing examiner's decision regarding Misconduct Report No. A 110205 was based upon the review of the relevant documentation, evidence, reports and documentation.

JUN-11-01 MON 12:40

ATTORNEY GENERAL

FAX NO. 717 772 4526

P.08/08

6/11/01
DATE

Robert Yarnell
ROBERT YARNELL

EXHIBIT "A"

IC-804
ART 1COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO.

MAH-0479-98

TO: GRIEVANCE COORDINATOR

INSTITUTION

DATE

FROM: (Commitment Name & Number)

INMATE'S SIGNATURE

WORK ASSIGNMENT

QUARTERS ASSIGNMENT

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

Brief, clear statement of grievance:

I do not eat pork and wish to know why I am not permitted to receive the alternate when pork is served.

Actions taken and staff you have contacted before submitting this grievance:

Actions taken: Contacted staff.
Staff contacted: Kotter, Jarrell (illogical response)

our grievance has been received and will be processed in accordance with DC-ADM 804.

Signature of Grievance Coordinator

Date

DC-804
PART II

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001

OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO.

MAH 0479-98

TO: (Name & DC NO.) Charles Isley AM9320	INSTITUTION SCI Mahanoy	QUARTERS RHU	GRIEVANCE DATE 12/26/98
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The following is a summary of my findings regarding your grievance:

Mr. Isley, you will be allowed to receive the protein alternative, if you sign up for the program. If you were medically approved, you would receive the alternate protein for both the dinner and supper meals.

cc: Deputy Klem
Grievance Coordinator
Records
File

Refer to DC-ADM 804, Section VIII,
for instructions on grievance
system appeal procedures.

SIGNATURE OF GRIEVANCE OFFICER

DATE

C. Robert Yarnell
Food Service Manager

1/4/99

EXHIBIT "B"

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

DC-141 Part III

Program Review Committee

☒ Misconduct Appeal☐ Periodic Review☐ Other

DC Number	Name	Institution	Date of Review	Misconduct #
AM9320	Isley, Charles	SCI Mahanoy	12/30/98	A110205

PROGRAM REVIEW COMMITTEE'S DECISION AND ITS RATIONALE

Inmate Isley appeals based on:

- a. The procedures employed were contrary to law, Administrative Directive 801, or to the ICU Consent Decree;
- c. The evidence was insufficient to support the decision.

The PRC has reviewed the available information concerning this misconduct including the report of Unit Manager Chesney, the findings of the Hearing Examiner, and inmate Isley's appeal.

Inmate Isley appeals that procedures employed were contrary to law, ADM 801, or the ICU Consent Decree. PRC finds nothing to support this appeal.

Inmate Isley also appeals that evidence was insufficient to support the decision. PRC notes that there was no new legitimate evidence to indicate a change of the Hearing Examiner's decision.

DECISION RELATIVE TO HEARING EXAMINER'S VERDICT

☐ Not Applicable ☒ Sustain ☐ Amend ☐ Refer Back for Further Study ☐ Exonerate

Names of Program Review Committee	Signatures	Date
Marva Cerullo, CHCA	<i>Marva Cerullo</i>	12/31/98
Robert Yarnell, Food Services Manager	<i>Robert Yarnell</i>	12/31/98
Richard Spaide, Unit Manager	<i>Richard Spaide</i>	12-31-98

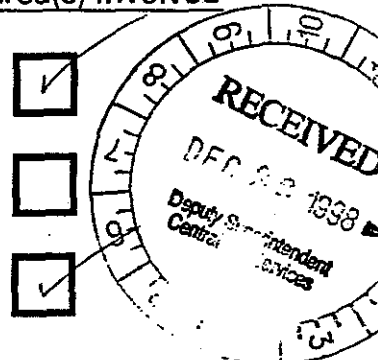
981228

DC-141 PART II E
MISCONDUCT HEARING APPEALCOMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

DC Number	Name	Institution	No. from PART I
AM-9320	C. Isley	Mahany	A110205

I was found guilty of misconduct # A110205 on 981216 (date) by the Hearing Committee/Examiner, and I wish to appeal that decision on the following grounds:
Check Area(s) Involved

- a. The procedures employed were contrary to law, Administrative Directive 801, or to the ICU Consent Decree;
- b. The punishment is disproportionate to the offense;
- c. The evidence was insufficient to support the decision.



Below is a brief statement of the facts relevant to my claim(s). It includes the identity of all persons who may have information which may be helpful in resolving this matter.

1. There was no evidence to support the charge. The false and retaliatory report clearly states that I complied with the alleged order.
2. The H.E. was biased. This is clear and obvious in the fact that he did not take my defense into consideration at all. It is a fact that it was makeup day for commissary for my block (actually the entire prison) and that other prisoners went on the day in question. Despite these facts, the H.E. erroneously and intentionally ruled that the day in question was not a normally scheduled makeup commissary day for my block. He also did not consider any of the facts which established that the report was retaliatory in nature and utterly false.
3. The H.E. refused to allow me to offer any evidence (documents, etc.) to support the defense of a fabricated and false retaliatory report.
4. The H.E. refused to call any of my witnesses.
5. The H.E. erroneously ruled that I never addressed the incident but my written version pellucidly reveals that he is a vicious liar and just refused to even take my written version into account.
6. The H.E.'s blatant bias is evident in the fact that he ruled that I complied with the order but he still found me guilty. He did so in order to cover for Chesney and to keep me in prison for several more years for nothing.
7. The H.E. ruled that I refused "orders" but never states which one and, in any event, ruled that I complied.
8. Chesney and the H.E. have violated my rights by retaliating against me for filing grievances/lawsuits and the H.E. blatantly violated my hearing rights.

DC-141 Rev. 6-84 DISCIPLINARY HEARING REPORT		PART II B		COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS	
DC Number AM9320	Name ISLEY	Institution SLDMH	Hearing Date 12/16/98	Hearing Time 10:05	No. from Part A110205
INMATE PLEA	<input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Not Guilty	<input type="checkbox"/> No Plea <input type="checkbox"/> Other	Verdict	<input checked="" type="checkbox"/> Guilty <input checked="" type="checkbox"/> Not Guilty	#22

CHARGES **B#7**
C#22

HEARING ACTION

FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED

At Belmar officers/Unit Mgr's Report over Inmate Plea and Version - At Mats, he in his Version never really addresses the incident but deals with the Pretense of retaliation for his filing grievances etc. At Belmar Inmate Isley did refuse orders to leave Unit Mgr's office after being told "No" to his request for a Commissary Pass to Shop after the Blacks Scheduled Day. At Belmar repeated orders were issued prior to Inmate finally complying and leaving the office.

*Sanction:
30 Days DC
eff 12/16/98*

<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	The inmate has heard the decision and has been told the reason for it and what will happen.
<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	The circumstances of the charge have been read and fully explained to the inmate.
<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	The opportunity to have the inmate's version reported as part of the record was given.
<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.

*Witness Form
Version Form*

SEE APPENDICES
☒

NAME(S) OF HEARING EXAMINER/COMMITTEE
(TYPED OR PRINTED)

K. BREON

Hearing Report and all appended information must be signed. Signature indicates finished report with appendices.

SIGNATURE OF HEARING EXAMINER/COORDINATOR

K. Breon

*E.K.
12/16/98*

DC-141

PART II C

COMMONWEALTH OF PENNSYLVANIA

Rev. 6-84

HEARING SUPPLEMENT

DEPARTMENT OF CORRECTIONS

INMATE VERSION AND WITNESS STATEMENTS

DC Number	Name	Institution	No. from PART I
Am 9320	Isley, Charles	SCIMAH	A110205

INMATE'S VERSION

Prisoner Isley pleads not guilty to both charges. He never used any abusive or obscene language and was never ordered to leave the office (even if he were, there is no evidence to support the charge of refusing to obey an order since the false misconduct report clearly stated that he complied with the order).

On the date in question prisoner Isley asked Chesney to go to commissary since it was make up day because he was just transferred to this prison (and his money had only just arrived on Thursday). However, Chesney denied the request stating that the only excuse for not going on Friday is being on a visit. When Isley pointed out that he was aware of the fact Chesney had permitted other prisoners to go that day without any valid excuse, Chesney stated "So what. You like filing grievances. You like filing lawsuits. I guarantee you won't be in my block much longer. You're a troublemaker. You should never have been released from the RITV..." Prisoner Isley just left as Chesney continued talking and subsequently asked prison guard Leach and the 2-10 p.m. Sgt if he could go to the store. Isley asked Sausser, Chesney, Leach, and the Sgt in that order.

The testimony of the prison guards will reveal that at no time was Isley disrespectful or argumentative to any of them, request.

Prisoner Isley wishes for the two grievances ^{and} he filed against Chesney to be offered into evidence and in the record as well as the list of inmates who went to commissary on 9/12/04 from IT. It is a fact that one prisoner (Biggins) got out of the hole on Saturday and was permitted to go to commissary as well as laundry workers whose pay was not on Friday.

It is perfectly clear from the facts that Chesney fabricated the false charges against Isley in retaliation for his filing grievances/lawsuits in order to have Isley thrown in the hole and denied parole (he is scheduled to see the board in February).

In essence, there is no evidence to support the charge of refusing to obey an order because even if the false report were true it clearly states that Isley complied. There is no evidence to support the charge of using abusive or obscene language because the preponderance of the evidence clearly shows that Isley spoke to other prison guards before and after Chesney and made no such statements and was not argumentative and the evidence of retaliation against Isley from Chesney clearly shows, from the grievances and request, that the charges are utterly false. Lastly, Isley is a Black man from Philly. He would have said "not just football" and, in any event, the alleged statement is neither abusive or obscene.

DC-141

PART II A

COMMONWEALTH OF PENNSYLVANIA

Rev. 6-84

INMATE REQUEST FOR
REPRESENTATION AND WITNESSES

DEPARTMENT OF CORRECTIONS

DC Number	Name	Institution	Date	Number as on Par
AM 9320	Isley, Charles	SCI MAH	12-14-98	A110205

You have been charged with a misconduct. You may request assistance and/or witnesses to appear at your hearing by completing the section(s) below.

In order to have assistance or witnesses at your hearing, you must complete this form and present all copies to one of your housing officers no later than 9:00 a.m. the first working day after you receive notice of the misconduct.

Assistance: ☐ I do not request assistance
☐ I request assistance by _____
(The person requested must be willing to assist you)

Witnesses: You may request witnesses in accord with DC-ADM 801. State the relevance and importance of the testimony the witness will give.

DO NOT WRITE IN THIS SECTION
For Use by Hearing Examiner

Witness permitted? If not, why not?

Witness permitted? If not, why not?

Witness permitted? If not, why not?

1. Name of Witness: No. If Inmate Quarters

2-10 Sgt on JA on 981214
Why is this person's testimony relevant and important?
Involved in incident alleged

2. Name of Witness: No. If Inmate Quarters

C.O. Sausser
Why is this person's testimony relevant and important?
Involved in incident alleged

3. Name of Witness: No. If Inmate Quarters

C.O. Leachey
Why is this person's testimony relevant and important?
Involved in incident alleged

Inmate's Signature

Hearing Examiner's Signature

This section to be completed by Housing Officer only

Received completed form 0755 hours 12/15/98
Time Date

Housing Officer's Signature

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES ISELEY,

Plaintiff

v.

W. CONWAY BUSHEY, et al.,

Defendants

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No. 1:00CV-00577

UNSWORN DECLARATION OF MICHAEL R. YOURON

I, **MICHAEL R. YOURON**, hereby declare under the penalty of perjury that the following is true and correct based upon my personal knowledge:

1. I am currently employed by the Pennsylvania Department of Corrections ("DOC") at State Correctional Institution Mahanoy ("SCI-Mahanoy") in Frackville, Pennsylvania as the Chief Psychologist. At the time relevant to this complaint I was the Chief Psychologist at SCI-Mahanoy.

2. As Chief Psychologist, I supervise and responsible for the administration the Psychology Department at SCI-Mahanoy. This includes overseeing that the proper policies and procedures concerning the gathering of psychological information and reports are properly administered, including information gathered for the Pennsylvania Board of Probation and Parole.

3. On December 24, 1998 Iseley wrote a request to me requesting that his consent be revoked regarding his Mental Health Informed Consent Document. Iseley further requested that the original document be returned to him. I responded to Iseley that his consent was, in fact, revoked and I returned the original document to him. I also made a note on his DC-15 (Treatment File), that Iseley revoked his consent regarding the Mental Health Informed Consent Document.

4. In January, 1999 I was contacted by James Unell, who was reviewing a grievance submitted by Iseley. (See Exhibit "A" attached)

5. Unell accurately reported that Iseley's consent was revoked per his request, that the original document was returned to him, and that a note was made on his DC-14 to that effect.

6-8-01
DATE

Michael R. Youron at LPA
MICHAEL R. YOURON

EXHIBIT "A"

DC-804

PART II

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001

SCI MAHANAY
RECEIVED

JAN 06 1999

INMATE PROGRAM MANAGER

OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO. MAH-0002-99

TO: (Name & DC NO.) ISLEY, CHARLES AM-9320	INSTITUTION SCI-MAHANAY	QUARTERS RHU	GRIEVANCE DATE 1/06/99
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The following is a summary of my findings regarding your grievance:

This is in response to Grievance No. MAH-0002-99. I note that I spoke with you at length regarding this grievance in our meeting in the RHU on 1/14/99. I note the following: You acknowledged during our meeting that Mr. Dennison did not introduce himself as a Parole Board member. It was your assumption that he worked for the PBPP. You are now well aware that he is a Psychological Services Associate and a member of the Psychology Department. It is noted that Mr. Dennison presented a mental health informed consent document to you on 12/17/98. At that time you decided to sign the form after it was reviewed. On 12/24/98 you wrote a request to Mr. Youron, Chief Psychologist requesting that your consent be revoked and that the original document be returned to you. In response to your request slip, dated 12/24/98, Mr. Youron wrote back to you and informed you that your consent was, in fact, revoked. You acknowledged to me on 1/14/99 that you did receive the original document. Also, I note that a DC-14 entry was made indicating that you had revoked your consent. Be informed then, that at this point in time, we do not have your consent regarding the mental health informed consent policy/document. In accordance with the policy 7.3.1, I cautioned you that recipients of the reports (e.g.: staffing committees and the Parole Board) "may draw negative inferences" from your refusal. The psychology staff also gave you such counsel. I also explained to you the significance of your refusal and the impact of it. I remind you also that you may decide to give your consent at a later point in time. You stated that you fully understood our conversation. You also stated that you still wish to refuse to sign the mental health informed consent document.

In that all of the elements of your grievance have been fully addressed, I recommend no further action regarding this grievance.

rh/

cc: Deputy Klem
Mr. Youron
Mr. Dennison
file

Refer to DC-ADM 804, Section VIII,
for instructions on grievance
system appeal procedures.

SIGNATURE OF GRIEVANCE Officer

James D. Hall

DATE

1/14/99

804
IT 1COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598SCI MAHANOY
RECEIVED

JAN 06 1999

INMATE PROGRAM MANAGER

GRIEVANCE NO. MAH-0002-99

OFFICIAL INMATE GRIEVANCE

GRIEVANCE COORDINATOR <i>Dotter</i>	INSTITUTION <i>Maharoy</i>	DATE <i>990103</i>
IM: (Commitment Name & Number) <i>C. Isley AM-9320</i>	INMATE'S SIGNATURE <i>C. Isley</i>	
RK ASSIGNMENT <i>Nil</i>	QUARTERS ASSIGNMENT <i>RTU C-9</i>	

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

Brief, clear statement of grievance:

A person by the name of Dennison misrepresented himself to me in order to trick me into signing the Mental Health Informed Consent Document. He stated that I had to sign it to be evaluated for parole pursuant to the "Quotia" litigation. I have since ascertained that he is not employed by the parole board and that I was not required to sign anything for parole evaluation. Consequently, I want the original of the document and any and all copies as I do not give permission for anything and my signature is invalid as it was attained illegally.

Actions taken and staff you have contacted before submitting this grievance:

Actions taken: Contacted staff
Staff contacted: Brown, Yoonon

If grievance has been received and will be processed in accordance with DC-ADM 804.

Signature of Grievance Coordinator

Date

1/4/99

\$150.00

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHARLES ISELEY,
Plaintiff,

v.

W. CONWAY BUSHEY, JANE DOE,
MIKE MOE, ROBERT MEYERS,
TERRY WHITMAN, GREGORY GAERTNER,
SAM MAZZIOTTA, SARA CRAIG,
CHARLES MITCHELL, TRESSLER,
WAKEFIELD, MARTIN HORN,
ROBERT BITNER, CAROL DOTTER,
MARTIN DRAGOVICH, K. BRECK,
J. KEVIN KANE, NOVOTNEY,
K. DENTLISON, THOMAS CHEENEY,
MARVA CERULLO, RICHARD SPAIDE,
ROBERT YARNELL, SALLY GENARINI,
JAMES VHELL, JAMES CORBACIO,
THOMAS HORAWIG, BRENDA WILDENSTEIN,
YOUNGON, EICHENBERG, FRYZEL,
GAVIN, MAHALLU, FRED FOE,
BIROSAK, HARRY HOE, PEER,
MACKRETH, DRABINSKY,
ABC Corp., AAA Corp., JASON GLOW,

Defendants.

FILED

JUN 19 1999

MICHAEL E. KUNZ, Clerk

Dep. Clerk

Civil Action No.

99CV-5380

Jury Trial Demanded

CIVIL RIGHTS COMPLAINT

EXHIBIT

6

1-23-01

Jurisdiction

1. This is a civil rights action authorized pursuant to 42 sections 1981, 1983, 1985(3) and 1986, to redress the deprivation under color of state law, of rights secured by the United States Constitution. The court has jurisdiction under 28 U.S.C. sections 1331 and 1343 and the aforementioned statutory provisions. Plaintiff further invokes the pendent jurisdiction of the court to hear and decide claims arising under state law. Plaintiff seeks declaratory relief pursuant to 28 U.S.C. sections 2201 and 2202.

Plaintiff

2. Plaintiff, Charles Tseley, is a state prisoner currently imprisoned at Mahanoy state prison and is and was at all times relevant to this complaint a prisoner in the custody of the Pennsylvania Department of Corrections (hereinafter "DOC").

Defendants

3. Del Corning Bushey is the secretary of the Pennsylvania Board of Probation and Parole (hereinafter "PBP").

4. Jane Doe, true name currently unknown, is a PBP employee.

5. Mike Moe, true name currently unknown, is a PBP employee.

6. The above defendants can be reached at Pa. Bd. of Prob. & Parole, P.O. Box 1661, 301 North Front St., Harrisburg, PA 17105.

7. Robert Meyers is the warden at Rockview state prison (hereinafter "RSP").

8. Terry Whitman is the deputy warden at RSP.

9. Gregory Baertner is the deputy warden at RSP.

10. Sam Mazzotta is the grievance coordinator at RSP.

11. Sara Craig is a psychologist at RSP.

12. Charles Mitchell is a hearing examiner at RSP.

13. Tressler, first name unknown, is a prison guard of rank of captain at RSP.

14. Wakefield, first name unknown, is a prison guard rank of major at RSP.

15. The address for RSP is SLI-Rockview, Box Bellefonte, PA 16823.

16. Defendant Martin Horn is the secretary for the

17. Robert Bitner is the chief hearing examiner for the

18. Martin Dragovich is the warden at Mahanoy State Prison (hereinafter, "MSP").

19. Cecile Dotter is the grievance coordinator at MSP.

20. K. Breon is the hearing examiner at MSP.

21. J. Kevin Kane is a hearing examiner at MSP.
22. Novotney, first name unknown, is the deputy warden MSP.
23. ^KDennison, first name unknown, is a psychologist at
24. Thomas Chesney is a unit manager at MSP.
25. Marva Cerullo is the healthcare administrator
26. Richard Spaide is a unit manager at MSP.
27. Robert Yarnell is a MSP employee
28. Sally Gennarini is the mailroom supervisor at MSP.
29. James Unell is a MSP employee.
30. James Corbacio is the activities supervisor at MSP.
31. Thomas Hornung is the unit manager at MSP.
32. Brenda Wildenstein is a unit manager at MSP.
33. Egan, first name unknown is a psychologist supervisor at MSP.
34. Eichenberg, first name unknown, is a prison guard rank of lieutenant at MSP.
35. Fuzel, first name unknown is a prison guard at

36. Gavin, first name unknown, is a prison guard of the rank of lieutenant at MSP.

37. Mahally, first name unknown, is a prison guard of the rank of lieutenant at MSP.

38. Fred Toe, true name unknown, is a prison guard of the rank of lieutenant at MSP.

39. Bicosak, first name unknown, is a prison guard of the rank of sergeant at MSP.

40. Harry Hoe, true name unknown, is a prison guard of the rank of sergeant at MSP.

41. Peek, first name unknown, is a prison guard at MSP.

42. Mackreth, first name unknown, is a prison guard at MSP.

43. Dropinsky, first name unknown, is a prison guard at MSP.

45. AAA Corp, true identity unknown, provides optical services to MSP.

46. Jason Brow is a parole agent at MSP.

47. The address for MSP is SCI-Mahoney, 301
Rd., Frackville, PA 17932.

48. Each defendant is sued individually and in his
official capacity. At all times mentioned herein, each
defendant acted under color of Pennsylvania law.

Facts

49. In the past, plaintiff has filed legal actions numerous DOC employees at various state prisons including those at Greene, Graterford, Dallas, Camp Hill and Row.

50. Plaintiff was transferred from Greene state prison to RSP on July 2, 1997, in retaliation for his filing legal actions and was capriciously and arbitrarily kept in the hole for approximately three months in retaliation for his filing actions and grievances against prison officials. Plaintiff was wrongfully retained in the hole by defendant's man, Gaertner and Meyers.

51. The day after plaintiff was released from the hole he was escorted to defendant Meyers's Office and informed that "they" did not like troublemakers such as plaintiff and that if plaintiff would refrain from filing actions and grievances they would try and arrange to be transferred to another prison closer to home and would not be harassed during the interim.

52. Nevertheless, that was not true as plaintiff was not transferred to another prison and was still in the hole.

53. For example, plaintiff must secure a favorable recommendation for parole to make parole. In order to do so he must participate in his prescriptive program (hereinafter, "PPP").

54. Plaintiff's PPP at RSP consisted of participating in a recreation program, drug program and stress and anger program.

55. However, plaintiff was informed by the education department that there were no programs available for him.

Plaintiff was not permitted to attend the drug program because he was not allowed on the drug program prison block.

56. Moreover, it should be taken into consideration that none of plaintiff's criminal charges were for narcotics and he has never tested positive for drug use or received a misconduct or other report for controlled substances or similar thereof.

57. Plaintiff was not permitted to attend the stress management program (Temper control unit) because he was not allowed on that program's prison block.

58. In addition, it should be noted that plaintiff completed a stress and anger program at another prison.

59. Plaintiff notified defendants Mazzotta, B. Horn, Meyers and Telkittman regarding the intentional and malicious and arbitrary denial of his right to attend the stress management program.

60. On August 24, 1998, plaintiff and two other prisoners were thrown in the hole pending an investigation of alleged involvement in a fight on August 24, 1998 at 6:00 p.m. of that date. The other two prisoners are

61. They were allegedly identified by numerous prisoners known as "confidential source" informants allegedly witnessed them fighting another prisoner who

62. Nevertheless, one of the other prisoners was released from the hole because he had an alibi, recalling that the alleged witnesses to the alleged incident were incredible.

63. On August 31, 1998, plaintiff received a misconduct report. The charge was Criminal Conspiracy to Commit Aggravated assault concerning an alleged assault on another prisoner on August 24, 1998, at 12:30 p.m.

64. The other prisoner received ^{an} identical charge ~~and~~ an additional charge of Aggravated assault.

65. Plaintiff received the misconduct report at 10:30 and had a hearing regarding same at 11:20 a.m. - less one hour after receiving the aforesaid relevant report. The hearing examiner was defendant Mitchell.

66. Pursuant to state regulations, state law, and DO policy, plaintiff could not have a hearing in less than twenty-four (24) hours after receipt of the pertinent misconduct report and had a right to be present at the hearing, but could not exercise this right because of the hearing examiner's refusal to allow him to be present.

67. Furthermore, plaintiff was not present at the hearing and was not even made aware of the hearing until days later.

68. Defendant Mitchell intentionally lied in his hearing report stating that plaintiff was present at the hearing when plaintiff was not there.

69. On September 2, 1998, plaintiff had another hearing. Defendant Mitchell was the hearing examiner. Defendant

Mitchell asked plaintiff three questions and had plaintiff escorted out by the prison guards.

70. Plaintiff was then notified by a prison guard that the hearing was continued and plaintiff was taken and thrown back in the hole. Plaintiff did not receive a copy of the decision or reason for the continuance despite requesting same numerous times.

71. On September 3, 1998, plaintiff's hearing continued and defendant Mitchell simply gave plaintiff a copy of the decision and sentence, which was drafted the prior day and prior to any testimony or evidence by plaintiff or his witnesses.

72. When plaintiff pointed this out, defendant Mitchell stated that it did not matter. Plaintiff requested his witnesses and to offer documentary/physical evidence and to have all his objections entered into the record but defendant Mitchell denied all save for the witnesses.

73. When plaintiff pointed out that there was no evidence to support the charge and that he saw the parole board and would have to spend many more years in prison as a result of the bogus charge, defendant Mitchell stated that he did not care because he can just look at a "nigger" and tell he is guilty and that people (i.e., "niggers") such as plaintiff should never be allowed out of prison but should be killed.

75. There was no evidence that plaintiff conspired with anyone to commit aggravated assault.

76. There was no evidence that an assault even occurred as the alleged victim claimed he was not assaulted and was seen by numerous witnesses after the alleged assault was supposed to have occurred and he had no injuries (the alleged victim was allegedly severely injured).

77. The alleged victim did not receive a misconduct report for lying to an employee.

78. It is believed that defendant Mitchell was once a prison guard who was viciously and brutally raped and sodomized by black prisoners, with a cleaving utensil possible because of his superlative racism.

79. Plaintiff notified defendants Wakefield, Gaertner, Whitman, Meyers, Bitner, Tressler and Horn but they refused to assist plaintiff or denied his appeals in retaliation for his filing prison grievances and legal actions and because of his race and status as a prisoner.

80. Plaintiff's suit and plaintiff's appeal against defendants Meyers and Bitner who denied same in retaliation for plaintiff's filing prison grievances, legal actions and assertions of racism by DOC employees.

81. Plaintiff's retaliatory transfer from Greene prison RSP was a result of defendant Varner's retaliatory actions against plaintiff for filing legal actions and prison grievances.

82. In December of 1998 plaintiff was transferred from RSP to MSP, in retaliation for filing legal actions and grievances.

83. On December 11, 1998, plaintiff exited his cell to work but was informed by defendant Mackreth "fuckin' lock up right now!". Plaintiff complied immediately.

84. After the entire prison was locked down, at approximately 9:20 p.m., defendant Mackreth had plaintiff's cell door opened and, in violation of DOC policy, entered plaintiff's cell and informed him that he, plaintiff, is a "troublemaker" and a "stupid fuckin' asshole" who will not have a job tomorrow.

85. Plaintiff was fired from his job the next day.

86. Plaintiff apprised defendant Chesney of the wrongful employment termination but defendant Chesney prevaricated, stating that plaintiff never had a job.

87. It is a fact that plaintiff was fired from his job.

88. The denial of the job and pay was in retaliation for plaintiff's filing legal actions and prison grievances.

89. Plaintiff filed a prison grievance to defend his job and pay but it was denied in retaliation for plaintiff's filing legal actions and prison grievances.

✓ 90 Defendant Dotter intentionally tied in order to cover up the wrongful retaliatory actions against plaintiff.

✓ 91 Plaintiff appealed to defendants Dragovich, Bitner, and Hoen who denied same in retaliation for plaintiff's filing legal actions and prison grievances.

✓ 92. On December 12, 1998, plaintiff requested to be permitted to go to the prison commissary, on makeup, but was denied by defendant Chesney.

✓ 93. When plaintiff notified defendant Chesney, he had allowed other prisoners to go and that it was unfair to bar plaintiff. Defendant Chesney replied "So what? You like filing grievances. You like filing lawsuits. I guarantee you won't be on my block much longer. You're a troublemaker. You should never have been released from the ALU..."

✓ 94. Plaintiff did not respond and simply exited the office while Chesney continued to rant and rave and threaten plaintiff.

Chesney stated that plaintiff used obscene language and refused an order to leave the office.

96. Plaintiff received the report in retaliation for filing prison grievances and legal actions.

97. On December 16, 1998, plaintiff had a disciplinary hearing before defendant Breen concerning the aforementioned relevant false and retaliatory misconduct report.

98. However, defendant Breen refused to consider plaintiff's defenses and refused to allow plaintiff to offer any documentary or exculpatory evidence and refused to take into consideration plaintiff's written and oral versions and refused plaintiff's witnesses for false and retaliatory purposes and reasons.

99. Defendant Breen was intentionally biased against plaintiff and made illogical rulings supported by ~~no~~ evidence and found plaintiff guilty of refusing to obey an order in retaliation for plaintiff's filing legal actions and grievances.

100. There was insufficient evidence to support the charge because the false report and the biased hearing examiner specifically stated that plaintiff apparently complied with the alleged order (although none was given).

101. Defendant Breen was so biased that he utterly refused to ascertain any true facts concerning the incident.

After the hearing, defendant Breen called plaintiff on the phone requesting orders on what should be done with plaintiff and agreeing to follow the orders given which apparently were to drop one charge and sentence plaintiff to thirty (30) days in the hole. Plaintiff was then brought back into the hearing room and sentenced to thirty days in the hole for refusing to obey an order.

103. Clearly, plaintiff was set up. Plaintiff does not know the identity of the person Defendant Breia spoke on phone to.

104. Plaintiff appealed to defendants Cerullo, Zepa, Spaide, Dragovich, Bitner and Horn who denied his grievances and because of his status as a prisoner.

C I ✓ 105. While plaintiff was in the hole he was denied shaves, showers, recreation and harassed by defendant Flyzel and Eichenberg who threatened plaintiff with physical harm and death in retaliation for his grievances and legal actions.

C I ✓ 106. Defendant Eichenberg often kicked plaintiff's cell door and threatened to kill him in retaliation for his filing lawsuits.

C I ✓ 107. Plaintiff's cell light was used as a psychological weapon by being kept on from approximately 6:00 p.m. to 6:00 a.m. (and 24 hrs. a day at times) in order to mentally, emotionally and psychologically damage plaintiff via disrupted sleep and sleep deprivation which adversely affected plaintiff's health and mental well-being.

C I ✓ 108. Plaintiff notified defendants Dotter, Dragovich, Bitner, and Horn but they condoned and sanctioned their actions against plaintiff in retaliation for his filing legal actions and grievances.

109. Plaintiff, because of his Islamic beliefs, does not eat pork.

110. While at MSP, plaintiff is not permitted to receive the alternative main course (non-animal protein substitute) in lieu of the normal main course when pork is served.

111. Plaintiff informed defendants Yarnell, Dotter, Dragovich, Bitner and Horn via grievance and appeals thereof but they refused to assist plaintiff in retaliation for his filing legal actions and grievances.

112. In essence, the defendants are punishing plaintiff for his Islamic beliefs and rewarding others for their beliefs (i.e., vegetarians).

113. At other state prisons, such as Rockview, Hunting et cetera, plaintiff is permitted to have a substitute when pork is served.

114. Pursuant to MCC policy such a format is followed at other prisons but not at MSP.

115. In January of 1999, plaintiff was placed on grievance restriction in retaliation for filing grievances. This grievance restriction was continued and exacerbated by defendants Horn and Bitner in retaliation for plaintiff filing legal actions and grievances.

116 On November 17, 1983, Defendant Derrisen appeared before plaintiff's prison call gate in the noon and stated to plaintiff that plaintiff had to sign a paper, a psychiatric consent form, to be evaluated for parole.

117 Plaintiff appraised defendant Derrisen that he never had to sign anything before to be seen by the parole board but defendant Derrisen stated to plaintiff that it is a new policy and must be signed pursuant to the "Estin Litigation".

118 Based on the data, which was later to be found completely false, plaintiff placed his signature on the document so he could see the parole board.

119 Plaintiff ^{later} ascertained that defendant Derrisen was not employed by the PBPP and that he did not have to sign any consent form to be reviewed for parole.

120 Plaintiff informed defendants Grow and Youron and the latter immediately informed the PBPP that plaintiff refused to sign the form to punish plaintiff for exercising his rights.

121 Defendant Youron did not state the reason why plaintiff was punished and defendant Youron did not state the reason why plaintiff was punished.

122 Plaintiff filed a prison grievance and defendant Dotter and Unell responded via the grievance, stating that defendant did nothing wrong and that plaintiff was informed of numerous things by defendant Unell in person when, in truth, defendant Unell only told plaintiff one thing.

123 Plaintiff informed defendants Dragovich, Bitner and Horn via appeal but they denied same in retaliation for plaintiff's filing grievances and legal actions.

124 Defendants Dotter and Vucell lied in order to retaliate against plaintiff for filing grievances and legal actions.

125 Defendant Dennis allegedly performed, approximately December of 1998, a psychological evaluation of plaintiff. Then three minutes and did not inform plaintiff that such evaluation was being performed or identify himself as a psychologist.

126 Approximately in November of 1998, Defendant C. allegedly performed a psychological evaluation of plaintiff. However, the only thing plaintiff ever spoke to her about was his PPP and his transfer, pending, to another prison.

127 The relevant psychological evaluations were deliberately inadequately administered and intentionally included false misleading information and were purposefully created to be detrimental to plaintiff in order to deny and quash any opportunity for plaintiff to make parole in retaliation for his prison grievances and legal actions.

128. Defendant Bushey intentionally permits his agents violation of law, to capriciously and arbitrarily deny parole by relying on psychological and DOC reports which he deliberately include inadequate/false data and are capriciously and arbitrarily created to adversely affect the opportunity of plaintiff for parole. Defendant Bushey, knowingly and intentionally, and with malice, denies and retaliates against plaintiff for filing grievances and legal actions.

129. On February 17, 1999, plaintiff was seen for a par interview by defendants Grow, Doe and Moe

130. Plaintiff notified them of prison officials' intention retaliation against him over many years for his filing griev and legal actions and of their deliberate deletion of bene data from his files and intentional addition of adverse da and false data in his prison files to ensure adverse pa recommendations to guarantee parole denial to plaintiff.

131. Defendant Moe specifically notified plaintiff he was well aware that plaintiff files numerous laws and grievances and has even filed actions against the parole board which was stupid for plaintiff to do because plaintiff should expect retaliation for his actions.

132. Defendant Moe further stated to plaintiff that the only way plaintiff will ever make parole is if he ce filing legal actions and prison grievances

133. When plaintiff noted that he felt it was unfair retaliate against him and allow retaliation against him for exercising his rights defendant Moe stated "Well, that's how things are".

134. Plaintiff was subsequently denied parole in re for his filing legal actions and grievances

135. In February of 1999, plaintiff received ^{early} two letters. The mail which contained two letters and Islamic litera which was confiscated by defendant Gennarini because plaintiff's race or beliefs.

136. Defendant Gennarini refused to give plaintiff a reason for the confiscations.

137. On February 25, 1999, defendant ^{Garin} notified plaintiff in person, while referring to plaintiff as a, inter alia, "nigger" and threatening plaintiff with physical injury, that plaintiff's mail was confiscated. ^{Garin} The "muslim nigger stuff" is "gang-related material" and that plaintiff is going in the "muslim nigger file".

138. Defendant Garin further stated that plaintiff would be retaliated against via harassment and false misconduct reports for being a "muslim nigger" if plaintiff continued to ^{complain} ~~complain~~. Plaintiff never received his Islamic literature.

139. Plaintiff contacted defendants Dragnevich ^{and} Bitne concerning the aforementioned wrongful confiscation but the sanctioned, condoned and approved of the intentional discriminatory and unlawful confiscation in retaliation for his race, beliefs and filing of grievances and legal action.

140. In January of 1999 plaintiff was released from the he and afterward discovered numerous items were missing from his personal property.

141. The missing property consisted of, inter alia, approximately twelve publications that were exhibits in a federal lawsuit in the Western District Court. Plaintiff never received any confiscation forms or reasons as to why his property was confiscated. Plaintiff's case has been seriously hampered by the denial of the publications since they were to be exhibits for appeal purposes in the Third Circuit Court of Appeals and in the Western District Court.

142. Plaintiff contacted defendants Dotter, Dragovich, Bitner and Koon but they refused to assist plaintiff in retaliation for plaintiff's filing grievances and legal action.

143. On May 24, 1999, plaintiff was wrongfully charged \$2.00 (two dollars) for a medical visit concerning a chronic condition.

144. However, pursuant to state regulations and law and DOC policy plaintiff is not to be charged for medical visits for chronic conditions.

145. As a result of the charge, which was improper, plaintiff had to pay an additional \$5.00 surcharge.

146. Plaintiff attempted to be reimbursed for his stolen money and contacted defendants Cerullo, Dotter, Dragovich and Bitner who all denied same in retaliation for plaintiff's filing grievances and legal actions.

147. Defendant ABC Corp. specifically follows a pattern or practice of discriminating against prisoners by refusing to reimburse them for wrongful charges if possible and by charging wrongful fees to prisoners anyway.

148. On February 4, 1999, plaintiff was wrongfully charged \$2.00 (two dollars) for a medical visit regarding a chronic condition.

149. However, pursuant to state regulations and law and DOC policy plaintiff is not to be charged for chronic condition medical visits.

150 Plaintiff attempted to be reimbursed for his stationery and money and contacted defendants Cerullo, Diaz, Dotter and ~~ABC~~ ^{ABC} Corp. but nothing was done in retaliation for plaintiff's filing grievances and legal actions.

151 Defendant ~~ABC~~ ^{ABC} Corp. specifically follows a pattern and practice of discriminating against prisoners by refusing to reimburse them for wrongful charges and by wrongfully charging prisoners for fees they should not be charged for.

152 On February 11, 1999, plaintiff ordered a pair of prescription eyeglasses. On the same date plaintiff dispatched a written communication requesting that the lenses be made photo-gray but defendant Fox refused to alter or cancel the order to deny plaintiff his money.

153 Plaintiff subsequently contacted defendants Bi, Cerullo, Dotter, AAT Corp. and Dragovich who refused to alter or cancel the order or reimburse plaintiff for the glasses he has never received and does not want and their actions are in retaliation for plaintiff's filing grievances and legal actions.

154 Defendant AAT Corp. has a pattern and practice policy of discrimination by not allowing plaintiff a refund because he is a prisoner but allowing refunds to others.

155 On April 15, 1999, a guitar bag was confiscated from ~~plaintiff's~~ plaintiff's mail by prison officials despite the fact that such items are permitted and plaintiff had received prior approval from prison officials to possess one.

EJ 156 Plaintiff subsequently contacted defendants Mahully, Novotney, Dragovich and Bitner for the return of his guitar bag but they refused in retaliation for plaintiff's filing grievances and legal actions.

EJ 157 Plaintiff has yet to receive or be reimbursed for his intentionally stolen guitar bag.

158 On January 15, 1999, plaintiff purchased a radio from the prison store.

159 Subsequently, plaintiff received a radio from the prison store which was not what he wanted.

160 Defendant Birozak, in retaliation for plaintiff filing prison grievances, then ordered plaintiff to sign the radio out, at plaintiff's expense, to an outside prison store for a refund despite the fact that plaintiff did purchase it from that store but from the prison store.

161 On March 19, 1999, defendant Birozak informed plaintiff that the outside store sent plaintiff a different radio and then ordered plaintiff to mail the radio back to the outside store for a refund, at plaintiff's expense.

162 However, plaintiff refused to sign because he purchased the radio from the prison store and not the outside store, but defendant Birozak stated that plaintiff would never get his money back if he filed a grievance.

163 Plaintiff refused to sign and further stated that he would file a prison grievance to get his money back.

164. Plaintiff contacted defendant Dutter who refused to assist plaintiff pursuant to the orders and sanctions of defendants Dragovich, Bitner and Horn in retaliation for plaintiff's filing legal actions and grievances.

165. Plaintiff has yet to receive his money back for the radio.

CI ✓ 166. On August 27, 1999, plaintiff's cell was searched. His legal material was read by defendant Dropinsky, who then told plaintiff to throw all of his legal material in the trash save for folders because plaintiff would be going to trial soon for a lawsuit against numerous DOC employees.

CI ✓ 167. When plaintiff refused and attempted, pursuant to DOC, to speak to a superior officer, defendant Dropinsky became abusive and aggressive, stated that plaintiff would not see anyone and referred to plaintiff as a "nigger" and physically pushed plaintiff, causing him to fall backward, hitting his head on the steel table and his shoulder on the floor. Defendant Dropinsky slammed the cell door closed. This occurred at 18:20.

CI ✓ 168. Plaintiff informed defendant Hoo, via cell interview, of the retaliatory and racially motivated assault on his person by defendant Hoo. Defendant Hoo told him "So what" in retaliation for his prison grievances and legal actions.

CI ✓ 169. Subsequently, plaintiff again attempted to speak to a superior officer by notifying defendant Hoo via cell interview. Plaintiff was informed by defendant Hoo that he got what he deserved and was locked in his cell pursuant to defendant Fox's orders.

170 Defendant Dropinsky would then periodically come to plaintiff's cell door and rant and threaten him with death and refer to plaintiff as a "nigger", among other things. Defendant told plaintiff he would not make parole.

171. Subsequently, plaintiff was thrown in the hole and received a false and conspiratorially planned misconduct report in retaliation for plaintiff's filing a legal action against prison officials. Specifically civil action number 96-1693 which was filed in the federal western district court of Pennsylvania and was set for trial on September 20, 1999.

172. On August 30, 1999, plaintiff had a hearing before defendant Kane who refused to even read plaintiff's written version form and stated that plaintiff should not have bothered writing one because his officers do not lie. Defendant Kane refused to comply with state regulations, DOC policy and state law because of plaintiff's status as a prisoner, black and muslim. Plaintiff was found guilty and sentenced to 60 days.

173. Defendant Kane has a long and well known bias against the above and of violating prisoners' rights. It is believed that the innate bias stems from the killing of his father, a black prisoner who was a muslim.

174. Plaintiff appealed the decision to defendants, Lord, Wildenstein, Horning and Bitner but they refused to address plaintiff's issues in retaliation for plaintiff's filing grievances and legal actions and because of his status as a prisoner.

175. On August 31, 1999, plaintiff found out that 75% of his personal property was missing, including almost all of his legal material.

176. Plaintiff subsequently contacted, in person, defendants B and Peck and contacted, via written communication, defendants Novotney, Dragerich, Bitner, Dotter and Mahally concerning his missing property but nothing has been done in retaliation for his filing prison grievances and legal actions and because he is a prisoner.

177. One box of missing legal material contained all of plaintiff's trial documents concerning his then upcoming federal trial scheduled on September 20, 1999. The denial of the legal material barred plaintiff from adequately representing himself in trial since he had none of the photocopies of documents (marked and ordered), possible examination and cross-examination questions for each witness, exhibits, notes, references and cross-references, etc., he required. Plaintiff believes that legal material was intentionally taken by defendant Arpinsky in retaliation.

178. Other missing property includes a chess set, numerous magazines (approximately eight which were exhibits in a legal action) among other things.

179. Plaintiff has thus far been unable to adequately locate his property. To ascertain exactly what is missing as of the date of the hearing.

180. In all instances concerning plaintiff's property, pertinent defendants had care, custody and control of same and a duty to hold and/or track plaintiff's property or reimburse him for his losses or return the property to him.

181. In all instances regarding discipline, the defendants had a duty to ensure that plaintiff was not punished capriciously or arbitrarily or because of his race or his status as a prisoner.

182. In all instances regarding plaintiff's money, the defendants had a duty not to wrongfully charge plaintiff for items or services.

183. Plaintiff exhausted the available administrative remedies as far as he was permitted or he was allowed to prior to the filing of this complaint.

Legal Claims

184. The facts, acts and conduct of defendants related disclose a concerted and systematic effort by the defendants and their agents to deprive plaintiff of constitutionally secured rights, including, but not limited to, those enumerated in the succeeding paragraphs.

First Cause of Action

185. The actions of defendants violated plaintiff's First Amendment rights guaranteed under the United States Constitution when he was retaliated against for filing actions, retaliated against for filing grievances, retaliated against for not giving permission for his psychological records to be disseminated, denied his legal material for trial, denied pork-free alternative meal, denied his Islamic literature.

Second Cause of Action

186. The actions of defendants violated plaintiff's second Fourth Amendment rights guaranteed under the United States Constitution when he was denied employment and pay, opportunity to obtain a favorable parole recommendation, denied opportunity to obtain parole, denied accurate psychological reports, denied property and money.

Sixth Cause of Action

190. The actions of defendants violated plaintiff's section Fourteenth Amendment rights to equal protection guaranteed under the United States Constitution when he was denied pork-free alternative meats, denied his Islamic literature and punished for his status as a prisoner.

Seventh Cause of Action

191. The actions of defendants violated plaintiff's section rights guaranteed under the laws of the Commonwealth of Pennsylvania and the court has pendent jurisdiction to hear and adjudicate such claims which are in regard to, but not limited to:

- a) negligence
- b) gross negligence
- c) due process
- d) equal protection
- e) invasion of privacy
- f) fictitious report
- g) theft by unlawful taking or disposition

Equity

192. The plaintiff has no plain, adequate or complete at law to redress the wrongs described herein. Plaintiff has and will continue to be irreparably injured by the conduct of defendants unless the court grants the declaratory and injunctive relief which plaintiff seeks.

Relief

WHEREFORE, plaintiff prays and respectfully requests the court to enter a judgement granting him the following:

A. A declaratory judgement that the defendants' policies and practices herein described and complained violated plaintiff's rights under the United States Constitution and the laws of the Commonwealth of Pennsylvania.

B. A permanent injunction which:

- 1) bars defendants from retaliating against plaintiff
- 2) allows plaintiff to receive the pork-free alternative meal when pork is served
- 3) allows plaintiff to receive accurate only and his records/files.
- 4) bars defendants and their agents from placing data in plaintiff's records/files.

C. Compensatory damages from defendants, and each of them, to plaintiff.

D. Penitive damages from defendants, and each of them, to plaintiff.

E. A jury trial on all issues triable by jury.

F. Plaintiff's costs of this action.

G. Such other and further relief as the court deems proper or equitable.

Date: October 12, 1999

Respectfully submitted,

Charles Isely

Charles Isely, AM
301 Morea Rd
Frackville, PA 17932

VERIFICATION

I declare, pursuant to 28 USC sec. 1746, that I have read the foregoing complaint and hereby verify under penalty of perjury that the matters asserted therein are true and correct to the best of my knowledge.

Date: October 12, 1999

Charles Isley
Charles Isley

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHARLES ISELEY,
Plaintiff,

v.

W. CONWAY BUSHEY, et al.,
Defendants.

REQUEST FOR LEAVE TO PROCEED IN FORMA PAUPERIS

Plaintiff, Charles Iseley, pursuant to 28 U.S.C. sec. 1915A, hereby respectfully requests the court for permission to proceed in ~~forma pauperis~~ in this matter for the following reasons:

1. Plaintiff has approximately fifty dollars on his prison account and has been unemployed for nearly twenty years and in prison for nearly that period of time.

2. The filing fee has been paid.

3. The prison officials refuse to give plaintiff an account statement covering the past six months unless the court requests it (see attached Exhibit "A").

4. Plaintiff requires his funds for personal hygiene items, medical services purchases, as well as for stationery supplies and postage costs/fees.

Dated: October 22, 1999

Respectfully submitted,

Charles Iseley
Charles Iseley
AM-9320, 301 Thorne
Franklin, PA 17320

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF
PENNSYLVANIA

* * * * *

CHARLES ISELEY, *
Plaintiff * Case No.
vs. * 1:00-CV-00577
W. CONWAY BUSHEY
et. al, *
Defendants *

* * * * *

DEPOSITION OF
CHARLES ISELEY
January 23, 2000

RECEIVED
Office of Attorney General

FEB 12 2001

Litigation Section

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1 DEPOSITION

2 OF

3 CHARLES ISELEY, taken on behalf of

4 the Defendant herein, pursuant to the

5 Rules of Civil Procedure, taken

6 before me, the undersigned, Mariska

7 Jones, a Court Reporter and

8 Commissioner of Deeds in and for the

9 Commonwealth of Pennsylvania, at the

10 offices of SCI-Coal Township, One

11 Kelley Drive, Coal Township,

12 Pennsylvania, on Tuesday, January 23,

13 2001, at 10:15 a.m.

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1 I N D E X

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3 WITNESS: CHARLES ISELEY

4 EXAMINATION

5 by Attorney Lewis 7 - 168

6 CERTIFICATE 169

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Page 3

1 A P P E A R A N C E S

2

3 Charles Iseley,

4 PRO SE

5

6 MARYANNE M. LEWIS, ESQUIRE

7 Deputy Attorney General

8 Litigation Section

9 Strawberry Square

10 Harrisburg, PA 17120

11 COUNSEL FOR DEFENDANT

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1 EXHIBIT PAGE

2

3

4

5 A Misconduct Report

6 Number 122000 42

7 B Civil Rights

8 Complaint 42

9 C Misconduct Report

10 Number 110205 55

11 D Inmate Grievance 71

12 E Memo 2/17/99 81

13 F Inmate Request to

14 Staff 101

15 G Memo 4/12/99 117

16 H Memo 5/18/99 119

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Page 6

Page 8

1 OBJECTION PAGE

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3 ATTORNEY

PAGE

4 NONE MADE

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1 QAnd I just want to refresh you
2 quickly about depositions. As you
3 know this is a device for gathering
4 information under the Civil Rules of
5 Procedure. It's oral testimony taken
6 under oath and a reporter's taking
7 down your responses. I'm going to
8 ask you a series of questions about
9 the facts and the allegations in your
10 complaint. I just need to put a
11 couple of these preliminary matters
12 on the record.

13 Now, you have two choices or
14 options regarding the reading and
15 signing of the deposition. The first
16 option is that you have the right to
17 read it, review it, and sign it as to
18 its accuracy and correctness. And if
19 you exercise that option the steno
20 will send you a copy of the
21 transcript, you have 30 days to
22 review it, to make the corrections,
23 sign it, and mail it back to her.
24 Depending on the length --- you have
25 to pay for the postage which could be

Page 7

Page 9

1 PROCEEDINGS

2

3 CHARLES ISELEY, HAVING FIRST BEEN
4 DULY SWORN, TESTIFIED AS FOLLOWS:

5

6 DIRECT EXAMINATION

7 BY ATTORNEY LEWIS:

8 QGood morning, Mr. Iseley.

9 Once again, I'm Maryanne Lewis of the

10 Pennsylvania Office of Attorney

11 General and represent the Defendants

12 in the lawsuit that you filed against

13 them. Before we get into the

14 deposition, there's some background

15 information that we need to put on

16 the record. This is the case of

17 Iseley versus Bushey et. al and it's

18 docketed to number 00-00577 filed in

19 the Middle District of Pennsylvania.

20 And we have a hearing today for the

21 purposes of taking your deposition in

22 regard to that complaint. Mr.

23 Iseley, have you ever been deposed

24 before?

25 AYes.

1 between \$20 and \$30.
2 The other option is that you
3 could waive the reading and signing
4 and assume and trust that the court
5 reporter who is a notary with the
6 Commonwealth review and take down
7 your testimony accurately. What do
8 you want to do concerning your
9 transcript?

10 ASend me a copy, I'll review
11 it.

12 QYou'll read and sign. The
13 second item we want put on the record
14 is in regard to any objections that
15 you may have concerning the questions
16 under the federal rules. If you feel
17 that a question is not appropriate or
18 proper, you have the right to object
19 to that question. If for some reason
20 you feel it's not relevant, you can
21 object on relevancy grounds. But for
22 the purpose of this deposition you
23 have to answer the question anyways
24 and then preserve it on the record
25 should it go to trial.

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Page 12

1 Or you can simply waive all
 2 your objections until the time of
 3 trial if we go to trial. What do you
 4 want to do concerning your
 5 objections? Do you want to put them
 6 on the record now or hold them until
 7 the time of trial?
 8 A I'll know when I make an
 9 objection. I'll put it on the record
 10 when I make an objection now.
 11 Q You'll put the objections on
 12 the record, fine. And the other
 13 thing, and I think you know this,
 14 you have to be mindful that we're
 15 making a written record so your
 16 responses have to be loud and clear
 17 so the reporter can get everything
 18 down. If your answer is yes or no,
 19 say it's yes or no, or I don't know,
 20 she can't put down if you're
 21 shrugging your shoulders.
 22 If you don't understand a
 23 question or it's unclear just ask me
 24 to repeat it or rephrase it, do you
 25 understand that?

1 background information and we can
 2 move into the facts of your
 3 complaint. I have a copy of the
 4 complaint here if you would like to
 5 review it.
 6 Mr. Iseley, in your complaint
 7 you state that you have filed legal
 8 actions against numerous DOC
 9 employees at various state prisons
 10 including those at Greene,
 11 Graterford, Dallas, Camp Hill, and
 12 Rockview; is that correct?
 13 A Yes.
 14 Q Is there any other
 15 institutions that you can remember
 16 and I won't ask you to list every
 17 case, but is there any other
 18 correctional institutions that you
 19 perhaps failed to mention?
 20 A It's a matter of record, I
 21 don't know off the top of my head.
 22 Q Again, it's up to you if you
 23 want to check the complaint here.
 24 Mr. Iseley, in paragraph 50 of
 25 your complaint, you state that you

Page 11

Page 13

1 A Yes.
 2 Q If later in the deposition
 3 something comes to mind that you
 4 remember concerning a question that
 5 was asked before just stop me, we'll
 6 amend your answer to that question,
 7 do you understand that?
 8 A Yes.
 9 Q If you answer a question that
 10 I ask then is it fair for me to
 11 understand that you heard the
 12 question and that you understood it?
 13 A Yes.
 14 Q Mr. Iseley, do you understand
 15 that you're under oath today?
 16 A Yes.
 17 Q And you are obligated to tell
 18 the truth?
 19 A Yes.
 20 Q Is there anything that would
 21 prevent you from testifying
 22 accurately such as being under the
 23 influence of drug or alcohol?
 24 A No.
 25 Q I think that's it for the

1 were transferred from Greene State
 2 Prison to Rockview in July of 1997 in
 3 retaliation for filing legal actions.
 4 Why do you believe that this transfer
 5 was in retaliation?
 6 A I was never even released to
 7 population at Greene, and when I went
 8 to Greene I was suppose to go to
 9 population.
 10 Q And why did you believe you
 11 were to go to population?
 12 A I didn't do anything. I
 13 didn't have any separations there. I
 14 was told when I got to Greene I would
 15 be allowed in population.
 16 Q And why do you believe that
 17 this was in retaliation?
 18 A The transfer?
 19 Q Yes.
 20 A Why else would it be?
 21 Q The only reason is because you
 22 believe you were to go to population?
 23 A No, the only reason is that I
 24 had been in the hole for a year and a
 25 half or a year. I had never been in

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1 population there. I had separations
 2 all over the state. I'm not really
 3 allowed anywhere. It's suppose to be
 4 a maximum security prison.
 5 Therefore, I should have been allowed
 6 in population.
 7 **QAt Rockview?**
 8 **ANo, we're talking about**
 9 **Greene, that's just what you just**
 10 **said.**
 11 **QBut you said you were**
 12 **transferred from Greene to Rockview?**
 13 **AThat's not what you said, now**
 14 **you're talking about Rockview.**
 15 **QI'll read you the paragraph.**
 16 **Look at this. Plaintiff was**
 17 **transferred from Greene to State**
 18 **Prison at RSP, which I believe is**
 19 **Rockview, in retaliation for filing**
 20 **his legal actions.**
 21 **ACorrect.**
 22 **QWhy do you believe your**
 23 **transfer from Greene to Rockview was**
 24 **in retaliation?**
 25 **ABecause I had been filing**

Page 15

1 numerous motions to go to population,
 2 and lawsuits.
 3 **QAnd that's the only reason you**
 4 **believe that it was retaliation?**
 5 **AAnd timing, I believe the next**
 6 **week after that, the date of my**
 7 **transfer, they were suppose to answer**
 8 **a habeous corpus petition regarding**
 9 **my going to population.**
 10 **QIn what case, in what county,**
 11 **we'll break that down?**
 12 **AGreene.**
 13 **QIt was in --- do you remember**
 14 **the caption of the case?**
 15 **ANo.**
 16 **QAnd the case was pending in**
 17 **what in what court?**
 18 **ACounty Police Court.**
 19 **QAnd the habeous was**
 20 **concerning?**
 21 **AGoing to population.**
 22 **QSo while you were at Greene**
 23 **you were not in population; is that**
 24 **correct?**
 25 **ACorrect.**

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Page 16

1 **QWhen you were transferred to**
 2 **Rockview, you were placed where?**
 3 **AIn the hole.**
 4 **QSo you came, and correct me if**
 5 **I'm incorrect, you came from a**
 6 **restricted housing unit or the hole,**
 7 **if we want to call it, in Greene and**
 8 **went to the hole in Rockview?**
 9 **ANo.**
 10 **QWhat was your custody when you**
 11 **were at Greene?**
 12 **AI was 05. Long-term**
 13 **administrative custody.**
 14 **QSo you were in AC custody.**
 15 **And when you went to Rockview you**
 16 **were placed in what type of custody?**
 17 **AAdministrative custody.**
 18 **QSo then we went from**
 19 **administrative custody at Greene to**
 20 **administrative custody at Rockview?**
 21 **ANo. I went to Albion at**
 22 **first.**
 23 **QSo then this paragraph it says**
 24 **Plaintiff was transferred from Greene**
 25 **State Prison to Rockview State**

Page 17

1 **Prison, that's not correct? There**
 2 **was a move in between there?**
 3 **AI went to Albion first, then**
 4 **went to Rockview.**
 5 **QAnd how long were you at**
 6 **Albion?**
 7 **ASix days.**
 8 **QAnd when you were at Albion**
 9 **where were you housed?**
 10 **AIn the hole.**
 11 **QAnd while you were at Albion**
 12 **were you placed in the hole awaiting**
 13 **transfer to Rockview?**
 14 **AYes.**
 15 **QParagraph 51 of your complaint**
 16 **you state that the day after**
 17 **Plaintiff was released from the hole**
 18 **he was escorted to Defendant Meyers**
 19 **office, stop there. When you were at**
 20 **Rockview how long were you in the**
 21 **hole, or in administrative custody?**
 22 **AAbout three months.**
 23 **QAnd then what happened ---**
 24 **after three months and you were**
 25 **released from the hole, where were**

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Page 2

1 you housed?
 2 A.On a block.
 3 QAnd do you remember what
 4 block?
 5 A.No.
 6 QParagraph 51 you state that
 7 you were escorted to Defendant Meyers
 8 office and informed that they did not
 9 like troublemakers such as Plaintiff
 10 at Rockview State Prison, RSP. And
 11 if the Plaintiff would refrain from
 12 filing legal actions and grievances,
 13 they would try to arrange him to be
 14 transferred to another prison close
 15 to home and he would not be harassed
 16 during in the interim. Do you
 17 remember when you had that --- the
 18 dates of this conversation?
 19 A.It was the day after I was
 20 released to population.
 21 QSo if it's three months then
 22 you would --- it's a conversation
 23 ---?
 24 A.It was the next day after I
 25 was released to population, it was

1 released from administrative custody
 2 and back into population?
 3 A.Say that again.
 4 QThe time frame for when you
 5 say in paragraph 52 or state that
 6 none the less you were retaliated
 7 against for filing legal actions,
 8 this is back at Rockview?
 9 A.Yes.
 10 QAnd this is when they took
 11 your property and your TV?
 12 A.Yes, this is during the entire
 13 term when I was at Rockview, that's
 14 what that references. I'm not
 15 through.
 16 QExcuse me, okay, go ahead.
 17 A.Gave me false misconducts.
 18 Primarily the one referenced in that
 19 complaint. Found me guilty of it
 20 even though they knew I wasn't even
 21 there.
 22 QWe'll get to that misconduct.
 23 Go ahead, anything else?
 24 A.No.
 25 Q.You make an example that you

Page 19

Page 2

1 the next morning.
 2 QSo it would be some time in
 3 October of 1997?
 4 A.Off the top of my head I don't
 5 really know, but like I said it's a
 6 matter of record.
 7 QNow in the next paragraph that
 8 none the less that was not true as
 9 Plaintiff was not transferred soon
 10 and was retaliated against for filing
 11 legal action and grievances at other
 12 prisons. How were you retaliated
 13 against?
 14 A.Well, they didn't have my
 15 property.
 16 QGo ahead.
 17 A.They took my TV. They always
 18 searched my cell. They were always
 19 saying that inmates would put in
 20 request slips against me and some
 21 other dudes for doing stuff.
 22 QI want to stop here so we get
 23 the time frame again. This
 24 allegation that you make in paragraph
 25 number 52 is immediately after you're

1 must secure a favorable DOC
 2 recommendation for parole, to make
 3 parole. And you state that in order
 4 to obtain the same you must
 5 participate in a prescriptive program
 6 plan. Do you remember what your
 7 program was at Rockview?
 8 A.I didn't have one.
 9 Q.Why didn't you have one?
 10 A.You have to ask them that.
 11 Q.You don't know?
 12 A.It was retaliation.
 13 QSo you're saying that you
 14 didn't have a prescriptive program
 15 because of retaliation?
 16 A.What I'm saying is they
 17 refused to give me a prescriptive
 18 program plan in order not to be able
 19 to give me a recommendation for
 20 parole.
 21 QAnd who refused to give you
 22 this program?
 23 A.Meyers, Mazzotta, the
 24 counselor, the Union Manager, there
 25 was a whole lot of them.

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Page 22

1 Q In paragraph 55 you state that
 2 you were informed by the education
 3 department that there was no programs
 4 available for him you. Who told you
 5 that?
 6 A I don't recall. It's on a
 7 request slip.
 8 Q And this request slip would
 9 have been in 1997?
 10 A '97 or '98. It was one of the
 11 woman at the school building, I can't
 12 remember the title.
 13 Q And this is at what
 14 correctional institution?
 15 A Rockview.
 16 Q Mr. Iseley, you state in
 17 paragraph 59 that Defendant Mazzotta,
 18 Bitner, Horn, Meyers, and Whitman
 19 regarding the intentional capricious
 20 and arbitrary denial of your PPP.
 21 And they refused to assist you in
 22 retaliation for filing your legal
 23 actions and grievances. What lead
 24 you to believe that this was in
 25 retaliation?

Page 23

1 A Well, from the beginning like
 2 I said and like it says in the
 3 complaint, when I first got the
 4 population, that's what they told me
 5 about the lawsuits and the
 6 grievances.
 7 Q Who told you about the ---?
 8 A Meyers.
 9 Q Meyers told you about the
 10 lawsuits. What did he say, do you
 11 recall?
 12 A He told me if I would just be
 13 cool for a while, he would try to get
 14 me transferred closer to home. If I
 15 didn't start any trouble, I didn't do
 16 anything in here, he'd try and make
 17 it happen fast. He said he couldn't
 18 just get me out like that.
 19 Q And did he ever say anything,
 20 Meyers, about your prescriptive
 21 program?
 22 A What do you mean?
 23 Q Defendant Meyers, did he say
 24 anything to you about your
 25 prescriptive program?

Page 24

1 A Me, personally?
 2 Q Yes.
 3 A No.
 4 Q Did you ever file a grievance
 5 about the programs?
 6 A Yes.
 7 Q And you filed the grievance at
 8 SCI Rockview?
 9 A Yes.
 10 Q And what happened as a result
 11 of the grievances?
 12 A Nothing.
 13 Q Did you appeal the grievances?
 14 A Yes.
 15 Q To what groups or what bodies?
 16 A Meyers and Bitner.
 17 Q You state in your complaint
 18 that on August 31st, 1998, you
 19 received a misconduct report and the
 20 charge was for criminal conspiracy to
 21 commit aggravated assault concerning
 22 and alleged assault on another
 23 prisoner of August 24th, 1998 at
 24 12:30 p.m. Can you tell me what
 25 happened?

Page 25

1 A What do you mean what
 2 happened?
 3 Q Concerning the misconduct that
 4 you received?
 5 A He gave me a misconduct.
 6 Q Why?
 7 A For what you just said.
 8 Q For committing aggravated
 9 assault?
 10 A That was the charge. I didn't
 11 do it.
 12 Q You didn't do it. The guards
 13 came to your cell and handed you a
 14 misconduct, is that what happened?
 15 A Yes, that's pretty much what
 16 happened.
 17 Q You say that you received a
 18 misconduct report at 10:30 and had a
 19 hearing regarding the same at 11:20.
 20 Less than one hour after receiving
 21 the aforesaid misconduct report. The
 22 Hearing Examiner was Defendant
 23 Mitchell. So you had a hearing with
 24 Defendant Mitchell?
 25 A No.

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1 **Q.What happened?**
 2 AI didn't find that out until a
 3 few days later, they had a hearing,
 4 they didn't tell us they had a
 5 hearing. I can't tell you what
 6 happened there because I wasn't
 7 there, none of us were there.
 8 **Q.Did you receive a misconduct**
 9 **report as a result of the sanctions**
 10 **that were opposed against you?**
 11 A.Days later.
 12 **Q.And attached to that did you**
 13 **receive any information concerning**
 14 **the hearing that was held that same**
 15 **day?**
 16 AI received a paper. There
 17 wasn't too much information on there
 18 about it.
 19 **Q.Were you informed that there**
 20 **was a reliability hearing held on**
 21 **August 31st, 1998?**
 22 AI told you I didn't find that
 23 out until days later.
 24 **Q.But you agree that there was a**
 25 **reliability hearing held?**

Page 27

1 ANo, I don't agree to anything
 2 I don't know.
 3 **Q.Did you receive a copy of the**
 4 **misconduct part two B that detailed**
 5 **the reliability hearing?**
 6 A.That detailed it?
 7 **Q.That gave the findings and the**
 8 **facts concerning the reliability**
 9 **hearing?**
 10 A.They didn't say what was said
 11 in the reliability hearing. They
 12 just said what they found. They
 13 didn't say what the contents of
 14 anything --- or the confidential
 15 source informant said, I don't know.
 16 They didn't give me no identities or
 17 anything.
 18 **Q.But they did say what they**
 19 **found?**
 20 ANo, they didn't say what they
 21 found. When I say they say what he
 22 found, he said that he found that
 23 they were reliable witnesses in the
 24 past. As the content of their
 25 testimony I don't have no inkling.

Page 2

1 **Q.But you agree that you did**
 2 **receive a copy?**
 3 A.Yes, but not that day, like I
 4 said days later after the reliability
 5 hearing.
 6 **Q.You say in paragraph 68**
 7 **Defendant Mitchell intentionally lied**
 8 **in his hearing report stating the**
 9 **Plaintiff was present at the hearing**
 10 **when Plaintiff was not.**
 11 A.That's correct.
 12 **Q.What leads you to believe that**
 13 **Mitchell lied?**
 14 AI wasn't at the reliability
 15 hearing.
 16 **Q.But what led you to believe**
 17 **that he said you were?**
 18 A.Because on the form that they
 19 gave us it said that we were there.
 20 **Q.On the form concerning the**
 21 **reliability hearing?**
 22 A.Yeah, he said we were there.
 23 **Q.Where does it say that you**
 24 **were there?**
 25 AI don't know but I had it. On

Page 2

1 the form said that we were there and
 2 he informed me of the --- see where
 3 they check it?
 4 **Q.Uh-huh (yes).**
 5 A.What does it say?
 6 **Q.It says the inmate has heard**
 7 **the decision as had been told the**
 8 **reason for it and what will happen.**
 9 A.And if I wasn't there how
 10 could that happen.
 11 **Q.Well, you received the paper;**
 12 **correct?**
 13 A.Is that paper dated?
 14 **Q.It's dated for the hearing**
 15 **date, yeah.**
 16 A.So how can he tell me that on
 17 that date?
 18 **Q.It doesn't say he told you**
 19 **that on that date.**
 20 A.He said he gave me the
 21 opportunity to appeal.
 22 **Q.Well, read the bottom of the**
 23 **paper. All he's saying is that you**
 24 **received a copy of it. Did you**
 25 **receive a copy of it?**

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Page 30

1 A. That's not what that paper
2 means, when they tell you that they
3 tell you that in person.
4 Q. Did you receive a copy of this
5 report?
6 A. Days later.
7 Q. You also allege on September
8 2nd you had another hearing that
9 Defendant Mitchell was the Hearing
10 Examiner.
11 A. I don't allege anything. I'm
12 telling you what happened.
13 Q. Your complaint, you state that
14 on September 2nd, 1998 you had
15 another hearing and Defendant
16 Mitchell was the Hearing Examiner.
17 You state that he asked you three
18 questions and had the Plaintiff
19 escorted out by the guards. Where
20 were you brought?
21 A. To the hearing room.
22 Q. You went to the hearing room,
23 Mitchell asked you three questions,
24 and then you left?
25 A. He told me wait outside.

Page 31

1 Q. You waited outside. And then
2 what happened after that?
3 A. They just came back and told
4 me they're taking me back.
5 Q. Paragraph 71, you state that
6 on September 3rd Plaintiff's hearing
7 was continued. Defendant Mitchell
8 simply gave Plaintiff a copy of the
9 decision and a sentence which was
10 drafted the prior day and prior to
11 any testimony or evidence by
12 Plaintiff or his witnesses. What
13 lead you to believe that that
14 decision was drafted the prior day?
15 A. It was typed up, dated for
16 that day, and signed.
17 Q. And is this a copy of the
18 misconduct and the Hearing Examiner's
19 decision?
20 A. I can't see it from here.
21 Q. If you want to maybe scoot in.
22 A. Yes.
23 Q. You state on September 3rd the
24 hearing was continued and that you
25 requested his witnesses to offer

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1 documentary and physical evidence and
2 to have all your objections entered
3 into the record, but Defendant
4 Mitchell denied all save the
5 witnesses.
6 A. Correct.
7 Q. At the misconduct, your
8 witnesses were allowed to be
9 presented; correct?
10 A. Yes.
11 Q. What information or what
12 evidence was not permitted?
13 A. The fact that they say that
14 guy got beat up. He went to work
15 that day. Also when they locked us
16 all up for the investigation it was
17 because they said a bunch of dudes
18 beat that guy up according to their
19 confidential source informants.
20 There's no gloves like the gloves
21 they said or masks like that in the
22 whole prison. The guy said he wasn't
23 beat up.
24 Q. What documents did you have
25 that were denied?

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1 A. I don't recall all of them but
2 I asked for the testimony of the
3 confidential source informants to let
4 it be said, work reports to prove
5 that he wasn't --- it couldn't have
6 happened when they said it happened.
7 Q. In paragraph 73, you say you
8 were sanctioned to 90 days in the
9 hole, 30 days beyond the maximum
10 sentence allowed because of your
11 race. What evidence do you have that
12 this sentence was because of your
13 race?
14 A. I had one charge and I got 30
15 days more than the guy they said did
16 it, because they told me I was the
17 nigger that did it.
18 Q. Who told you that?
19 A. The guards.
20 Q. What guards?
21 A. It was sergeant in there that
22 day. Mitchell, he also told me after
23 I told him there was no evidence to
24 support a decision of guilt for the
25 misconduct, he told me he can just

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1 I look a nigger and tell they're
 2 guilty.
 3 Q And Sergeant Mitchell said
 4 this?
 5 A I didn't say Sergeant
 6 Mitchell. Mitchell was the Hearing
 7 Examiner.
 8 Q But who said this sergeant?
 9 A I said Mitchell said he can
 10 just look at a nigger and tell
 11 they're guilty. And I also said
 12 prior to that a Sergeant told me that
 13 they thought I was the nigger that
 14 did it, that's why I was getting more
 15 time.
 16 Q You state in paragraph 78 that
 17 you believe that Defendant Mitchell
 18 was once a guard who was viciously
 19 and brutally raped and sodomized by
 20 black prisoners with a cleaning
 21 utensil possibly because of his
 22 superlative racism. What do you base
 23 that on?
 24 A Because he asked me if I was
 25 at Camp Hill during the riots.

1 Whitman, Meyers, Bitner, Tressler,
 2 and Horn. You say that they refused
 3 to assist you. How did they refuse
 4 to assist you?
 5 A They refused to look into the
 6 facts of the situation regarding the
 7 appeal.
 8 Q And if I'm repetitive I'm
 9 sorry. And how did they retaliate
 10 against you, again, please?
 11 A By covering up what Mitchell
 12 did.
 13 Q How did they cover it up?
 14 A Because they allegedly was
 15 suppose to be doing investigation and
 16 they didn't do anything.
 17 Q And what was it that Mitchell
 18 did?
 19 A Called me a nigger, found me
 20 guilty without no evidence.
 21 Q And you appealed to ---?
 22 A The program review committee.
 23 Q And beyond that?
 24 A To the Warden Meyers, then to
 25 Bitner, and then to Horn.

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1 Q Is that all he asked you?
 2 A That's all he asked me. He
 3 said he thought he remembered me from
 4 Camp Hill.
 5 Q Anything else that he said?
 6 A No.
 7 Q After you received the
 8 misconduct what did you do as far as
 9 the misconduct proceedings?
 10 A I appealed.
 11 Q And who did you appeal this,
 12 the misconduct to?
 13 A I don't know, it don't say
 14 who. The program review committee.
 15 Q You state in paragraph 79 that
 16 they refused to assist Plaintiff or
 17 denied his appeals in retaliation for
 18 filing prison grievances and legal
 19 actions because of his race and
 20 status as a prisoner. How did they
 21 retaliate?
 22 A They refused to even look into
 23 the situation.
 24 Q And the individuals that you
 25 named here are Wakefield, Gaertner,

1 Q Mr. Iseley, you state on
 2 September 9th, 1998 that a
 3 publication was confiscated wrongly
 4 from your mail and you appealed this.
 5 Let's stop there. What publication?
 6 A I don't remember. And when I
 7 get the complaint I'm taking that out
 8 anyway.
 9 Q You're going to amend the
 10 complaint?
 11 A Yeah.
 12 Q So do you want to drop this
 13 allegation?
 14 A Yes.
 15 Q Put on the record here that
 16 you are going to the September 9th,
 17 1998 publication was confiscated from
 18 Plaintiff and Plaintiff appealed to
 19 Defendant Meyers, Horn, and Bitner
 20 who denied same in retaliation for
 21 Plaintiff filing prison grievances
 22 legal materials and ascertains of
 23 racism by DOC employees. Mr. Isely,
 24 has stated that he is going to drop
 25 that claim.

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1 A.Yes.
 2 QAnd following that paragraph
 3 is paragraph number 81 where you
 4 state Plaintiff's retaliatory
 5 transfer from Greene Prison to
 6 Rockview State Prison was a result of
 7 Defendant Gaertner retaliatory
 8 actions against Plaintiff for filing
 9 legal actions and prison grievances.
 10 Do you want to tell me about that?
 11 A.What don't you understand?
 12 QHow is that retaliatory?
 13 A.Because transferred me for
 14 filing a whole bunch of civil
 15 actions.
 16 QSo you're saying that --- what
 17 did Defendant Varner do --- was a
 18 result of Defendant Varner's
 19 retaliatory action?
 20 A.Well, that was a --- he's not
 21 even a Defendant. That was just a
 22 statement, fact.
 23 QSo you're saying Varner then
 24 did not retaliate?
 25 A.No, I didn't say that. That

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1 was a statement of fact regarding a
 2 complaint. He's not a Defendant in
 3 the complaint.
 4 QJust for record keeping
 5 purposes again we agree that
 6 paragraph 80 will be dropped from the
 7 complaint.
 8 A.Yes.
 9 QParagraph 82, you state that
 10 in December of 1988 you were
 11 transferred to Mahanoy State Prison
 12 in retaliation for filing legal
 13 actions and grievances. How is this
 14 transfer retaliatory?
 15 A.That's what they used to get
 16 me transferred out of Rockview, the
 17 assault on that guy. That's why they
 18 made it look like I did it so they
 19 had a reason to transfer me out.
 20 QSo they used the assault to
 21 transfer you out?
 22 A.Yes.
 23 QAnd who used the assault?
 24 A.Meyers.
 25 QMeyers?

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1 A.Whitman, Gaertner.
 2 QAnybody else?
 3 A.Not off the top of my head.
 4 QOn December 11th, 1998, you
 5 say you exited your cell to work but
 6 was informed by ---?
 7 A.I'm amending that too. I'm
 8 eliminating that.
 9 QLet's slow down here a little
 10 bit because we have a number of
 11 claims that deal with this.
 12 A.I understand but I would have
 13 amended the complaint much earlier
 14 but I don't have a complaint.
 15 Q.Well, if I recall pursuant to
 16 your document request that was made a
 17 number of months ago a copy of the
 18 complaint was made available to you.
 19 A.I didn't get it. Who gave it
 20 to me?
 21 QDid you contact the assistant
 22 to the superintendent?
 23 A.I remember sending a request.
 24 I don't remember what I asked for.
 25 Whatever I asked for --- but whatever

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1 it was I didn't get anything, and I
 2 didn't have a complaint. Like I told
 3 you before I don't have any of my
 4 property.
 5 QAt the completion of the
 6 deposition we'll straighten out that
 7 discovery then. So we have --- and
 8 just for record keeping purposes,
 9 again, I'm going through these
 10 complaints, these allegations or
 11 statements, excuse me, in your
 12 complaint. And you tell me if these
 13 are ones that you are going to drop
 14 or intend to drop. December 11th ---
 15 go ahead.
 16 A.Why don't you give me your pen
 17 and I'll mark on it what paragraphs
 18 I'll be eliminating.
 19 OFF RECORD DISCUSSION
 20 ATTORNEY LEWIS:
 21 Let the record reflect
 22 Mr. Iseley went through the
 23 complaint and checked
 24 paragraphs in the complaint
 25 that he wishes to drop.

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1 A. That will be dropped when I
 2 amend the complaint.
 3 BY ATTORNEY LEWIS:
 4 Q. That will be dropped when you
 5 amend the complaint. So at this
 6 point these paragraphs still stand in
 7 your complaint; correct? Pending
 8 permission to amend your complaint
 9 via the Court?
 10 A. Yes.
 11 ATTORNEY LEWIS:
 12 I'm going to attach as
 13 a --- I'm going to back up a
 14 minute, I want to attach
 15 misconduct number 122000 as
 16 Exhibit A. And Exhibit B will
 17 be a copy of Mr. Iseley's
 18 complaint captioned Iseley vs.
 19 Busher with paragraphs that
 20 were checked by Mr. Iseley as
 21 those being the ones that he
 22 will drop pending the filing
 23 of his amended complaint.
 24 (Deposition Exhibits A
 25 and B marked for

1 number 83 which you intend to drop,
 2 you state that you were --- you
 3 exited yourself to work but was
 4 informed by Defendant Mackreth to
 5 fuckin' lock up right now. Plaintiff
 6 complied immediately. Is that what
 7 happened, you still maintained that
 8 that happened; is that correct?
 9 A. Yes.
 10 Q. You state in paragraph 84 that
 11 you were informed that you were a
 12 trouble maker and a stupid fuckin'
 13 asshole who does not have a job
 14 tomorrow by Mr. Mackreth, is that
 15 true?
 16 A. Yes.
 17 Q. Did you have a job?
 18 A. Yes.
 19 Q. Who told you, you had a job?
 20 A. The worker.
 21 Q. What worker?
 22 A. The worker that tells
 23 everybody their jobs.
 24 Q. Does this worker have a name?
 25 A. I don't know.

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1 identification.)
 2 BY ATTORNEY LEWIS:
 3 Q. And I will have you initial
 4 these paragraphs, can you do that for
 5 me?
 6 A. Yes.
 7 Q. And we'll do that at the
 8 conclusion of the deposition, hold
 9 that, strike that.
 10 Let's do that now. Might as
 11 well initial them now.
 12 OFF RECORD DISCUSSION
 13 ATTORNEY LEWIS:
 14 Let the record reflect
 15 that Mr. Iseley also initialed
 16 those paragraphs with which he
 17 is considering dropping from
 18 his complaint pending the
 19 filing of his amended
 20 complaint.
 21 BY ATTORNEY LEWIS:
 22 Q. Is that fair characterization?
 23 A. No, they will be dropped.
 24 Q. Mr. Iseley, for the purposes
 25 of this deposition in paragraph

1 Q. Is he a staff person?
 2 A. No, he's an inmate.
 3 Q. And he was on the block at
 4 that time?
 5 A. Yes.
 6 Q. Do you remember what he said
 7 to you?
 8 A. Verbatim?
 9 Q. As much as you can recall.
 10 A. No, just that I was suppose to
 11 start working and what my job was.
 12 Q. When you receive a job on the
 13 block do you usually get clearance or
 14 notification from a staff person?
 15 A. I don't know.
 16 Q. Has that been your experience
 17 in the past when you had a job?
 18 A. I never had a job.
 19 Q. You never had a job when you
 20 were in prison?
 21 A. Yes.
 22 Q. You state that you were fired
 23 from your job the next day?
 24 A. Yes.
 25 Q. You still maintain that?

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1 A.Yes.

2 Q.Paragraph 86, you state that
3 you apprised a Defendant Chesney of
4 the wrongful employment termination,
5 but Chesney stated that you never had
6 a job. You still maintaining that's
7 true?

8 A.Yes.

9 Q.You state this denial of a job
10 and pay was in retaliation for legal
11 actions and prison grievances. How
12 was it in retaliation?

13 A.They fired me for it.

14 Q.Did they give you any reason
15 why they fired you?

16 A.Yeah, Chesney called Mackreth.

17 That's why they told me, they said

18 ---.

19 Q.They said what?

20 A.They said that's why I wasn't
21 having a job because I was filing
22 lawsuits and grievances.

23 Q.Did they ever tell you that
24 according to their records you never
25 had a job?

1 Q.And how did she retaliate?

2 A.She lied to cover up the
3 incident.

4 Q.Paragraph 91, another one that
5 you are considering to drop, you
6 state that Plaintiff appealed to
7 Defendant Dragovich, Bitner, and Horn
8 all who denied the same in
9 retaliation for your filing legal
10 actions and prison grievances. How
11 did they retaliate?

12 A.They covered it up.

13 Q.They covered up what?

14 A.In essence they didn't do
15 anything.

16 Q.Concerning the grievance?

17 A.Correct.

18 Q.Paragraph 92, another
19 paragraph that you indicated that you
20 indicated that you would drop, you
21 state on December 12th, 1998, you
22 requested to be permitted to go to
23 the prison commissary on make-up day
24 and was denied that by Defendant
25 Chesney. Do you maintain that as

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1 A.That's what they said.

2 Q.And did you file grievances
3 concerning ---?

4 A.Yes.

5 Q.And in paragraph number 89,
6 you state that the denial of your job
7 and pay was denied in retaliation for
8 Plaintiff filing legal actions and
9 prison grievances. Why do you think
10 it was retaliation?

11 A.Because that's what they said.

12 Q.And who said this?

13 A.Mackreth and Chesney.

14 Q.And what did Dotter do to you?

15 A.She didn't do anything.

16 Q.And how's that retaliation?

17 A.Because she covered it up.

18 Q.Paragraph 90 which is, again,
19 a paragraph that you are considering
20 to drop, you say that Dotter
21 intentionally lied in order to cover up
22 wrongful retaliatory actions against
23 Plaintiff. Do you still maintain
24 that's true?

25 A.Yes.

1 being true?

2 A.Yes.

3 Q.You state in paragraph number
4 93, another one that you indicate
5 that you would drop, that other
6 prisoners --- that Defendant Chesney
7 had allowed other prisoners to go and
8 that it was unfair to bar Plaintiff.
9 Chesney replied so you like filing
10 grievances, you like filing lawsuits,
11 I guarantee you won't be on my block
12 much longer, you're a troublemaker,
13 you should never have been released
14 from the RHU. You still maintain
15 that's true?

16 A.Yes.

17 Q.What other prisoners were
18 allowed to go to the commissary on
19 make-up day?

20 A.I put that in my grievance or
21 a request slip and told them they
22 could check and see who went to
23 commissary that day, verify it, but
24 they didn't check on it.

25 Q Do you in fact know that other

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1 prisoners went on that day?
 2 A.Yes, I do know that they went.
 3 QBut you --- do you know their
 4 names?
 5 A.No.
 6 QParagraph 94 is another one
 7 that you indicate that you are
 8 dropping when you file your amended
 9 complaint. That you did not respond
 10 and simply exited the office while
 11 Chesney continued to rant and rave
 12 and threaten Plaintiff. What did
 13 Chesney say if you recall?
 14 AI don't know I wasn't really
 15 listening to him.
 16 QSo you don't know what he
 17 said?
 18 A.Well, he just called me a
 19 bunch of names.
 20 QDo you remember what names he
 21 called you?
 22 A.Nothing I really want to
 23 repeat.
 24 Q.Can you repeat them?
 25 A.He called me an asshole,

1 obscene and abusive language and
 2 refused an order to leave the office.
 3 A.He gave me that false
 4 retaliatory misconduct report. It
 5 was in retaliation for my filing
 6 lawsuits and grievances. In essence,
 7 for my status as so-called jailhouse
 8 lawyer.
 9 Q.You state that on December
 10 16th, 1998, you had a disciplinary
 11 hearing before Defendant Breon
 12 concerning the aforementioned
 13 relevant false and retaliatory
 14 misconduct. Did you receive a copy
 15 of the misconduct hearing report?
 16 A.Yes.
 17 QAnd in there, in paragraph
 18 number 98, you state that Breon
 19 refused to consider your defenses and
 20 refused to allow you to offer any
 21 documentary or exculpatory evidence
 22 and refused to take in consideration
 23 your written and oral versions and
 24 refused Plaintiff's witnesses for
 25 false and retaliatory purposes and

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1 fuckin' this and fuckin' that.
 2 Q.You state in paragraph number
 3 95 that you subsequently received an
 4 intentionally false and fabricated
 5 misconduct by Defendant Chesney
 6 stating Plaintiff used obscene and
 7 abusive language and refused to leave
 8 the office. And you also state that
 9 that report in paragraph number 96
 10 was in retaliation for filing prison
 11 grievances and legal actions. How
 12 did he retaliate against you? What
 13 did he do?
 14 A.Well, who are you talking
 15 about?
 16 Q.You refer to Chesney.
 17 A.Are you talking Chesney or are
 18 you talking about the Hearing
 19 Examiner?
 20 Q.It's your paragraph, you tell
 21 me. It says, paragraph 95 says,
 22 Plaintiff subsequently received an
 23 intentionally false and fabricated
 24 misconduct report by Defendant
 25 Chesney stating that Plaintiff used

1 reasons. What documentary or
 2 exculpatory evidence did Breon
 3 refuse?
 4 A.The witnesses.
 5 Q.Do you remember receiving a
 6 copy of the misconduct report?
 7 A.Yes.
 8 Q.And Hearing Examiner's ---
 9 Part 2A, and this is difficult to
 10 read, but there is a notation by the
 11 Hearing Examiner that says the
 12 witnesses were denied. That the
 13 inmate indicated none of the staff
 14 were present at the time and place of
 15 incident.
 16 A.But I didn't say that.
 17 Q.That's not true, you didn't
 18 say that?
 19 A.No, I did not say that none of
 20 the staff were present at the time.
 21 That's why I put them on the witness
 22 sheet.
 23 Q.What did you say?
 24 AI said that they would testify
 25 that they didn't see me yelling at

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1 anybody and that I was only in the
 2 office for a short time, seconds, and
 3 then I left.
 4 Q>You also state that in
 5 paragraph 99 that Defendant Breon was
 6 intentionally biased against
 7 Plaintiff and made an illogical
 8 ruling supported by no evidence.
 9 What was the illogical ruling?
 10 AHe found me guilty for
 11 refusing an order and doesn't say in
 12 the misconduct report what the order
 13 was.
 14 Q>You also state that there was
 15 insufficient evidence to support the
 16 charge because the false report and
 17 biased Hearing Examiner specifically
 18 stated that Plaintiff apparently
 19 complied with the alleged order
 20 although none was given. What do you
 21 base that on?
 22 AI wasn't given any order.
 23 QBut you say that the Hearing
 24 Examiner specifically stated the
 25 Plaintiff apparently complied with

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1 the alleged order.
 2 AExactly, he said I was given
 3 an order.
 4 QWhere did he say that?
 5 AHe doesn't, it --- obviously
 6 he said I complied with the order if
 7 I left.
 8 QHe says that in his Finding of
 9 Fact?
 10 AI don't recall.
 11 QDo you want to read the
 12 Finding of Fact?
 13 WITNESS REVIEWS DOCUMENT
 14 AIt doesn't say what the orders
 15 were. If the orders were like he
 16 said.
 17 ATTORNEY LEWIS:
 18 We're going to attach
 19 this as Exhibit C to the
 20 deposition. Do you want to
 21 mark it so we don't get
 22 confused here?
 23 (Deposition Exhibit C
 24 marked for
 25 identification.)

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1 BY ATTORNEY LEWIS:
 2 Q>You also stated that Breon was
 3 so biased that he utterly refused to
 4 ascertain any true facts concerning
 5 the incident. How was he so biased?
 6 What do you base the biased claim on?
 7 ALike I said there were prison
 8 guards outside the office that would
 9 verify they didn't see me yell at
 10 anybody, they didn't hear me yell at
 11 anybody, and I was only in the office
 12 for a few seconds and I just walked
 13 out. Now, according to this guy I
 14 was yelling and screaming and all
 15 this. That couldn't have happened.
 16 QDid you appeal this
 17 misconduct?
 18 AYes.
 19 QAnd who did you appeal it to?
 20 AThe PRC.
 21 QAnd did you go beyond the PRC?
 22 AYes.
 23 QTo?
 24 ADragovich.
 25 QAnd after Dragovich?

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1 ABitner and Horn.
 2 Q>You state in paragraph 103
 3 that you were set up. What do you
 4 base that on?
 5 AIt was false misconduct
 6 regarding an incident that never
 7 happened.
 8 QAnd who set you up?
 9 AChesney.
 10 QAnd why would Chesney set you
 11 up?
 12 ABecause of my reputation as a
 13 jailhouse lawyer and so-called always
 14 be in trouble for things.
 15 QBut things you're in trouble
 16 for?
 17 AThey always say I'm involved
 18 in something.
 19 QInvolved in something meaning?
 20 ALike they say that guy got
 21 beat down over some drugs or football
 22 tickets or something and I didn't
 23 have anything to do with it.
 24 QEntering into another group of
 25 paragraphs that you are considering

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1 or will drop pending the filing of
2 your amended complaint. In paragraph
3 105, you allege that while you were
4 in the hole you were denied shaves,
5 showers, recreation and harassed by
6 the Defendants Fryzel and Eichenberg
7 who threatened Plaintiff with
8 physical harm and death in
9 retaliation for filing grievances and
10 legal actions. Do you still maintain
11 that that's true?

12 A.Yes.

13 Q.When were you denied shaves?

14 A.Always.

15 Q.You were not allowed to shave
16 at all?

17 A.That's correct.

18 Q.What about showers?

19 A.That was like a week, two
20 weeks.

21 Q.You were denied a shower for
22 two weeks. Can you put a time frame
23 on when this happened, when you were
24 in the hole?

25 A.I forget when the days were.

1 A.They'd be threatening me and
2 stuff from over there, kicking my
3 door and everything.
4 Q.They kicked your door. Did
5 they do anything else?
6 A.That's about it.
7 Q.You also state that they
8 threatened you with physical harm and
9 death in retaliation for filing
10 grievances and legal actions?

11 A.Yes.

12 Q.What did they say?

13 A.They were going to kill me.

14 Q.And why?

15 A.Because of filing grievances,
16 filing lawsuits, filing things
17 against guards.

18 Q.Did you ever file a lawsuit or
19 grievance --- let's do lawsuits
20 first, lawsuits against Fryzel and
21 Eichenberg?

22 A.No, not until this one.

23 Q.Did you ever file any
24 grievances against them?

25 A.Not until this one.

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1 Q.If this would refresh you, is
2 this the result of misconduct number
3 A110205 which occurred in December of
4 1998?

5 A.Regarding?

6 Q.The refusing to obey an order,
7 is that time period you're talking
8 about in the hole?

9 A.That was like a month.

10 Q.So this would have been in
11 January 1991?

12 A.Not '91.

13 Q.Of '99?

14 A.Yes.

15 Q.So in December, January,
16 whenever you were in the hole of '98,
17 '99, you received no shaves?

18 A.Correct.

19 Q.You didn't receive any
20 showers?

21 A.Not that I recall.

22 Q.No recreation?

23 A.Nope.

24 Q.And how were you harassed by
25 Defendants Fryzel and Eichenberg?

1 Q.Do you know why they were
2 threatening you?
3 A.I don't know what would be in
4 their brains.
5 Q.So you don't know why?
6 A.I know why.
7 Q.Why?
8 A.You mean ---.
9 Q.Why would they threaten you?
10 A.They're retaliations for my
11 filing lawsuits and grievances.
12 Q.Did you ever, before coming to
13 Mahanoy, did you ever know Fryzel or
14 Eichenberg before that?

15 A.No. Eichenberg used to work
16 in Graterford. I didn't know him but
17 he was a guard down there.

18 Q.Did you ever have any contact
19 with him at Graterford?

20 A.Yes.

21 Q.What?

22 A.He was just a guard.

23 Q.He was on your block?

24 A.Sometimes.

25 Q.Paragraph 106 is another

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1 paragraph that you are considering
 2 dropping pending the filing of your
 3 amended complaint. You state that
 4 Eichenberg once again threatened to
 5 kill you in retaliation for filing
 6 your lawsuit. Do you still maintain
 7 that that's true?
 8 A.Yes.
 9 QParagraph 107, you state that
 10 your cell light was used as a
 11 psychological weapon by being kept on
 12 from approximately 6 p.m. to 11 p.m.
 13 and 24 hours a day at times in order
 14 to mentally, emotionally, and
 15 psychologically danger Plaintiff via
 16 disruptive sleep pattern and sleep
 17 deprivation which adversely affected
 18 Plaintiff with same decreasing his
 19 mental, psychological, and emotional
 20 awareness and activity. Do you still
 21 maintain that that's true?
 22 A.Yes.
 23 QDid you file a grievance
 24 concerning this?
 25 A.Yes.

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1 QDid you receive a response
 2 concerning that grievance?
 3 A.Yes.
 4 QAnd in a response were you
 5 explained that the low intensity
 6 night lights were necessary for
 7 security in the units?
 8 A.That's what they said. But
 9 they never did that anywhere else I
 10 was at.
 11 QAnywhere else that you were
 12 at?
 13 A.Any other prison I was at.
 14 QThey didn't have that at
 15 Graterford?
 16 A.No, they don't keep them on 24
 17 hours a day.
 18 QAnd what about at Albion, when
 19 you were there?
 20 A.No.
 21 QSo you maintain that Mahanoy
 22 is the only institution that kept
 23 those lights on?
 24 A.Yes.
 25 QYou say in paragraph 107,

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1 which is another paragraph that you
 2 indicate that you will drop, you
 3 notified Defendants Dotter,
 4 Dragovich, Bitner, and Horn. That
 5 they condoned and sanctioned the
 6 actions against Plaintiff in
 7 retaliation for filing this legal
 8 actions and grievances. How did they
 9 retaliate against you?
 10 A.By ignoring the grievances
 11 without even taking into
 12 consideration.
 13 QTaking into consideration
 14 what?
 15 A.Basically they weren't taking
 16 any of the grievances into
 17 consideration. They were just
 18 denying them on a general principle
 19 because they were from me.
 20 QAnd why do you believe that
 21 Dotter would retaliate against you?
 22 A.For filing lawsuits and
 23 grievances. See when I went to those
 24 prisons they already knew who I was
 25 before I even got there. They'd come

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1 to me and tell me about me.
 2 QDotter came to you?
 3 A.I didn't meet the woman for
 4 many months 'til later on when I was
 5 there. What I'm talking about is in
 6 general.
 7 QIn general?
 8 A.In general they all knew who I
 9 was before I even got there.
 10 QWho all was they?
 11 A.I'm talking in general.
 12 Mahanoy personnel when I got there I
 13 was lead to population everybody knew
 14 who I was.
 15 QEverybody at Mahanoy?
 16 A.Guards were stopping me,
 17 calling me by name and I just got
 18 there.
 19 QSo all the guards ---?
 20 A.And I had wrote Horn about
 21 that because all the time when I get
 22 transferred how does everybody know
 23 who I am?
 24 QAnd did you get a response
 25 from someone?

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1 A.No.
 2 QParagraph 109, you state
 3 because of your Islamic belief you do
 4 not eat pork; is that correct?
 5 A.Correct.
 6 QIn paragraph 110, you state
 7 that while at Mahanoy you were not
 8 permitted to receive the alternate
 9 menu course?
 10 A.Correct.
 11 QDid you sign up to receive an
 12 alternative menu course?
 13 A.That's not the issue. The
 14 issue is at Mahanoy the way that they
 15 run it, is you have to be on either
 16 or. So when they serve pork we don't
 17 get anything.
 18 QBack me up a minute. What do
 19 you mean by you have to be on either
 20 or, either or what?
 21 A.You could have had the
 22 alternative meals or the regular
 23 meals. So when they serve pork they
 24 don't give you anything, if your on a
 25 regular meal.

1 this is the confusion. At the other
 2 prisons when they serve pork they
 3 give you an alternative.
 4 QThey give everybody an
 5 alternative?
 6 A.No. Anybody who wants it.
 7 But then I don't eat pork for
 8 religious reasons. So if they have
 9 pork, everywhere else they give us
 10 the alternative. At Mahanoy, they
 11 give us nothing. They tell me I have
 12 to be on the alternative meal list
 13 all the time.
 14 QWere you on the alternative
 15 meal list?
 16 A.No, but in population you
 17 don't have to be. They would give us
 18 the alternative if I was in
 19 population.
 20 QAt other institutions?
 21 A.Yes.
 22 QAt Mahanoy, in order to
 23 receive an alternate menu must you be
 24 on the alternative menu list?
 25 A.Not in population.

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1 QSo you have to be on the
 2 alternative meal to receive it?
 3 A.Correct. And you always get
 4 the alternative meal, you don't get
 5 anything else.
 6 QLet's stop there for a minute.
 7 So your complaint is, correct me if
 8 I'm wrong here, that if you're on the
 9 alternative meal plan that --- and
 10 it's a day that they're not serving
 11 pork but they're serving something
 12 else on the regular meal, is that the
 13 problem that you want to be on both
 14 lists?
 15 A.No. This is the problem,
 16 everywhere else when they serve pork
 17 they give us the alternative meal as
 18 a replacement. At Mahanoy, they
 19 don't give us anything, do you follow
 20 me?
 21 QNo, I think I'm confused. If
 22 you're on the alternative meal ---
 23 let's do this, were you on the
 24 alternative meal?
 25 A.I understand what you're ---

1 QIn the RHU?
 2 A.Yes.
 3 QSo you're saying at Mahanoy if
 4 you were in general population, you
 5 do not have to be on a alternative
 6 menu list to receive an alternative
 7 menu selection?
 8 AAt Mahanoy, you had to be on
 9 the list.
 10 QEither in general population
 11 or in a restricted population? If
 12 you're in general population at SCI
 13 Mahanoy and you want to receive the
 14 alternate menu, must you be on the
 15 alternate menu list?
 16 A.No, I don't know if that's the
 17 rule or if they were just doing it.
 18 QAt Mahanoy.
 19 A.Right.
 20 QAnd did you file a grievance
 21 concerning the ---?
 22 A.Yes.
 23 QNot being permitted to receive
 24 the alternate menu?
 25 A.When they serve pork.

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1 QAnd did you receive a
2 response?
3 A.Yes.
4 QI'll show you the response.
5 Do you want to read it? You can.
6 A.It didn't have anything to do
7 with the grievance.
8 QI'm going to read the --- in
9 the grievance it says Mr. Iseley ---
10 it's dated 12/26/98 and it's
11 grievance number NAH0479-98. Mr.
12 Iseley, you will be allowed to
13 receive the protein alternative if
14 you sign up for the program, you are
15 medically approved, you had received
16 protein alternative for both dinner
17 and supper meals. The question is
18 did you ever sign up for the
19 alternate protein?
20 A.If you sign up for the
21 alternate protein, that's all you can
22 get. You can have either regular
23 meals or you can have protein
24 alternative.
25 QAnd correct me if I'm wrong

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1 here, so what you want is to be able
2 to be on ---?
3 A.Like every other prison does
4 it, when they serve pork, why is it
5 that we don't get anything.
6 QBecause you're not on the
7 alternative list; is that correct?
8 A.This is the whole point.
9 QSo you want to be able to be
10 on the alternative list only,
11 alternative protein only, on the days
12 when they have pork?
13 AExactly.
14 QAnd be on the regular menu all
15 the other times?
16 AExactly.
17 ATTORNEY LEWIS:
18 I think we want to
19 attach this as, what are we up
20 to, Exhibit D. And that is
21 the grievance number MAH0479-
22 98. I'm sorry. I'm talking
23 and I'm not giving you enough
24 time to mark.
25 (Deposition Exhibit D

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1 marked for
2 identification.)
3 BY ATTORNEY LEWIS:
4 QIn paragraph 111, Mr. Iseley,
5 you state that you informed
6 Defendants Yarnell, Dotter,
7 Dragovich, Bitner, and Horn via
8 grievances and appeals thereof that
9 they refused to assist Plaintiff in a
10 retaliation for filing your legal
11 actions and grievances. What did
12 they do that was in retaliation?
13 A.They didn't even consider what
14 the issues and the grievances were.
15 QDid they return the grievance
16 to you?
17 A.What do you mean?
18 QDid they return the grievances
19 back to you, did they --- did they
20 review them?
21 A.That's what I'm saying, they
22 didn't review them at all. They just
23 patently denied them.
24 QParagraph 115, you state that
25 in January of '99 you were placed on

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1 grievance restriction by Defendant
2 Dragovich in retaliation for filing
3 grievances. And you say that it was
4 condoned by Defendants Horn and
5 Bitner in retaliation for filing your
6 legal actions.
7 A.Correct.
8 QWhy do you believe it was in
9 retaliation?
10 A.He said I'm on grievance
11 restriction for filing grievances,
12 what does that mean?
13 QDid he give you another
14 explanation, and he referring to Mr.
15 Dragovich?
16 A.Yes.
17 QDid he give you an
18 explanation?
19 A.That was the explanation.
20 QDid he say anything about the
21 number of grievances you filed in the
22 first few weeks that you were there?
23 A.What does that have to do with
24 anything?
25 QDid he tell you anything about

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1 using good faith in the grievance
 2 system?
 3 ADid you look at the grievances
 4 I filed?
 5 QMr. Iseley, that's not the
 6 question.
 7 AWell, the point is he says
 8 that I didn't make a good faith use
 9 of the grievance system and I filed
 10 five I believe within a few weeks.
 11 And he said that that was too large
 12 of number. Now, according to state
 13 regulations I'm permitted to file a
 14 grievance under Title 37. Now, all
 15 those grievances were valid
 16 grievances.
 17 QBut you agree that you did
 18 receive a memo from Superintendent
 19 Dragovich dated January 8th, 1999
 20 informing you of reasons why you were
 21 placed on grievance restriction.
 22 AFor filing grievances.
 23 QBut you did receive this memo?
 24 ALet me see.
 25 QI'll point you to the last

1 QYou state in your complaint
 2 paragraph 117 that Mr. Dennison said
 3 that it was a new policy?
 4 AThat's correct.
 5 QAnd had to be signed pursuant
 6 to the Austin litigation?
 7 ACorrect.
 8 QHave you ever seen this form
 9 before?
 10 ANo.
 11 QYou did then sign the
 12 document; is that correct?
 13 AHe told me I had to sign it or
 14 I wouldn't be reviewed for parole.
 15 QYou also say in paragraph 118
 16 that there was false information?
 17 AThat's correct.
 18 QWhat information was false, do
 19 you recall?
 20 AI didn't have to sign. He
 21 gave me the impression that he worked
 22 for the parole board and he didn't.
 23 QStated in paragraph 119 that
 24 you later ascertained that Dennison
 25 was not employed by the PBPP and that

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1 paragraph.
 2 AYes, I did receive this.
 3 QAnd I will refer to that as
 4 being attached to Exhibit D. It is
 5 the last page. Once again, it's
 6 dated January 8th, 1999. Mr. Iseley,
 7 in paragraph 116 in your complaint
 8 you state that in, and it appears to
 9 be the copies court hearing, December
 10 of 1998, Defendant Dennison came to
 11 your prison cell and stated that you
 12 had to sign a paper, a psychological
 13 --- psychiatric consent form to be
 14 evaluated. Can you tell me what
 15 happened, or how this came about?
 16 AThat's what happened, he came
 17 to my cell door and told me I had to
 18 sign some sort of consent form or
 19 psychological evaluation for parole.
 20 QAnd was this in conjunction
 21 with any type of meetings that you
 22 had with him or any type of parole
 23 meeting or review or ---?
 24 ANo, I'd never seen the man in
 25 my life before.

1 he did not have to sign the consent
 2 form. Do you recall revoking your
 3 authorization then to sign?
 4 AYes.
 5 QAnd you also state in
 6 paragraph 120 that you informed
 7 Defendants Grow and Youron and later
 8 immediately informed the parole board
 9 that you refuse to sign the form to
 10 punish Plaintiff for exercising his
 11 right. Can you explain that to me?
 12 AThey told the board that I
 13 refused to sign, but they didn't tell
 14 them why.
 15 QYou state that you filed a
 16 grievance concerning this incident of
 17 the signing of a form. Do you
 18 remember getting a response from the
 19 Superintendent concerning that?
 20 AYes.
 21 QAnd do you remember that the
 22 response, dated January 26th, 1999,
 23 where Mr. Dragovich informed you that
 24 the psychologist was following the
 25 established and routine procedures,

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1 and that there was a ---?
 2 A.Yep, that's what he said, but
 3 the guy came up there and lied to me,
 4 told me I had to sign it to be
 5 reviewed for parole, I wouldn't be
 6 reviewed for parole. And he gave me
 7 the impression he worked for the
 8 parole board. That's not what
 9 happened.
 10 **Q.What happened?**
 11 A.That's what he told me.
 12 That's not what happened, what he
 13 says, what Dragovich says, in his
 14 response. That didn't have anything
 15 to do with what I said in the
 16 grievance.
 17 **Q.And what was your complaint**
 18 **then in the grievance?**
 19 A.The man lied to me. He didn't
 20 give me any type of psychological
 21 evaluation. He talked to me for like
 22 30 seconds or a minute, two minutes
 23 at the most. Two, three minutes at
 24 the most. And he was on the other
 25 side of my cell door. How's he going

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1 to give me a psychological evaluation
 2 in two or three minutes, and he
 3 didn't ask me anything.
 4 **Q.So you at first signed the**
 5 **form; is that correct?**
 6 A.He told me I had to.
 7 **Q.And then you requested that**
 8 **the signature be revoked?**
 9 A.Yeah, when I found out he
 10 lied.
 11 **Q.And the signature was, in**
 12 **fact, revoked; correct?**
 13 A.I don't know. That's what
 14 they said.
 15 **Q.What happened after that,**
 16 **after your signature was revoked?**
 17 **What was the problem?**
 18 A.The problem is they told the
 19 parole board I refused to sign it.
 20 And they were suppose to give me the
 21 forms back and they never did. That
 22 form wasn't suppose to be part of my
 23 record.
 24 **Q.Why do you believe ---?**
 25 A.Because he lied to me. He

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1 made me sign it under false
 2 pretenses.
 3 **Q.And the false pretenses were?**
 4 A.He gave me the impression that
 5 he was a parole board employee and
 6 that if I did not sign the consent
 7 form for psychological evaluation, I
 8 would not be reviewed for parole.
 9 That was a lie.
 10 **Q.But you did file a grievance**
 11 **concerning this; correct?**
 12 A.Correct.
 13 **Q.And you did receive a**
 14 **response; is that correct?**
 15 A.From who?
 16 **Q.From Superintendent Dragovich?**
 17 A.Yes.
 18 **Q.Did you appeal this to the**
 19 **Chief Hearing Examiner, to Mr.**
 20 **Bitner?**
 21 A.Yes.
 22 **Q.And you received a response**
 23 **from him?**
 24 A.I don't recall if I did or
 25 didn't.

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1 **Q.We do have a February 17th**
 2 **response from Mr. Bitner which he**
 3 **denied your appeal; correct?**
 4 A.Correct.
 5 ATTORNEY LEWIS:
 6 And we can mark this as
 7 Exhibit E.
 8 (Deposition Exhibit E
 9 marked for
 10 identification.)
 11 BY ATTORNEY LEWIS:
 12 **Q.Paragraph 126, you said that**
 13 **in November of 1998, Defendant Craig**
 14 **allegedly performed a psychological**
 15 **evaluation of the Plaintiff, and that**
 16 **the only thing Plaintiff ever spoke**
 17 **to her about concerned his PPP and**
 18 **his transfer pending to another**
 19 **prison; is that correct?**
 20 A.That's correct.
 21 **Q.And then you state in**
 22 **paragraph 127 that the relevant**
 23 **psychological evaluations were**
 24 **deliberately and inadequately**
 25 **administered and intentionally**

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1 included false, misleading
 2 information and were purposefully
 3 created to be detrimental to
 4 Plaintiff in order to deny and quash
 5 any opportunity for Plaintiff to make
 6 parole in retaliation for filing
 7 prison grievances and legal actions.
 8 What information did you believe to
 9 be false?
 10 A.Craig never even evaluated me.
 11 Q.And then you're alleging that
 12 ---?
 13 A.She wrote in her psychological
 14 evaluation report a whole bunch of
 15 things that she psychologically
 16 evaluated me on and came to a whole
 17 bunch of conclusions when I never
 18 even had an evaluation, period.
 19 Q.Did you speak to Defendant
 20 Craig?
 21 A.I told Craig the day before I
 22 was being transferred that I was
 23 coming up for parole. She said oh,
 24 well, I'm supposed to do a
 25 psychological evaluation on you.

1 A.It was a drug program or
 2 something, TCV program or something.
 3 They told me I had to take those
 4 programs, but at the same time, I'm
 5 not allowed on those blocks.
 6 Q.You spoke with Ms. Craig about
 7 your prescriptive program, what else
 8 did you speak with her about?
 9 A.That was it. Then she came
 10 around for, I think they come out
 11 every 30 days. Psychologists come
 12 every 30 days and say something to
 13 you, ask you if you're hallucinating,
 14 are you eating, stuff like that.
 15 Q.So she asked you questions.
 16 And this 30 day review ---?
 17 A.Well, she only came once for
 18 that.
 19 Q.At that time you were in the
 20 RHU?
 21 A.Yes.
 22 Q.So that's two times, you said
 23 three or four.
 24 A.I spoke to her a lot of times.
 25 She's a little goofy. She just be

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1 Q.That was ---.
 2 A.And then later on I find the
 3 psychological evaluation report in my
 4 records when I never even had a
 5 psychological evaluation by Craig.
 6 Q.So you only had that one
 7 conversation with her?
 8 A.No, I spoke to her about three
 9 or four times, maybe more. She would
 10 always be talking.
 11 Q.You spoke to her three or four
 12 times?
 13 A.Probably more than that, but
 14 not about the evaluation report,
 15 spoke to her concerned about the
 16 prescriptive program plan.
 17 Q.What about your prescriptive
 18 program?
 19 A.Well, they told me I had to go
 20 over to --- they told me I had to do
 21 some type of program for my
 22 prescriptive program plan, but I
 23 wasn't allowed on those blocks.
 24 Q.Do you remember what it was
 25 that you had to do?

1 talking to you sometimes even though
 2 you don't say anything to her.
 3 Q.What does she do that's goofy?
 4 A.Like one time I was sitting
 5 there minding my business, she just
 6 starts yelling my name across the
 7 block.
 8 Q.Why would she yell your name?
 9 A.To say hi.
 10 Q.And what other, let's say
 11 conversations, did you have with her?
 12 A.I only spoke to her, like I
 13 said, about three or four times
 14 regarding the prescriptive program
 15 plan and the one thing about me
 16 coming up for parole and I'm getting
 17 ready to transfer.
 18 Q.What did you discuss about
 19 that coming up for parole?
 20 A.Well, we didn't discuss it. I
 21 said I was getting ready transfer,
 22 and she said she was getting ready to
 23 do a parole that's she supposed to do
 24 a parole evaluation on me.
 25 Q.Did she do a parole evaluation

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1 on you?
 2 AI found a parole evaluation
 3 report later on in my records when I
 4 never had one.
 5 QDid you file a grievance
 6 concerning this?
 7 AI couldn't. I didn't find it
 8 out until much later.
 9 QSo you didn't do anything
 10 about this, what you characterize as
 11 false information?
 12 AI It is false information.
 13 QIn paragraph 128, you state
 14 that Defendant Bushy intentionally
 15 permits his agents in violation of a
 16 law to capriciously and arbitrarily
 17 deny parole by relying on
 18 psychological and DOC reports when he
 19 knows --- which he knows, excuse me,
 20 deliberately includes inadequate
 21 false data, capricious and
 22 arbitrarily created to adversely
 23 affect the opportunities of Plaintiff
 24 for freedom. Defendant Bushy
 25 knowingly condones and sanctions such

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1 actions in retaliation against
 2 Plaintiff for his filing grievances
 3 and legal actions. Do you still
 4 maintain all that's true?
 5 ACorrect.
 6 QHow does Bushy do this? Can
 7 you explain that to me?
 8 AWell, what I'm saying, there
 9 is a pattern and practice of them
 10 knowing that these reports are being
 11 made out.
 12 QWho's them, them you said
 13 knowing?
 14 AThe parole board --- the
 15 Pennsylvania Board of Probation and
 16 Parole employees who do the parole
 17 reviews which includes Bushy, because
 18 I wrote him about it.
 19 QWhy do you believe it includes
 20 Bushy?
 21 ABecause I wrote him about it.
 22 QDid he respond to you?
 23 ANo. Also, his name is on the
 24 green sheets, or was.
 25 QAny other reason why you

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1 believe Bushy knows, or Bushy
 2 intentionally permits this what you
 3 call inadequate and false data?
 4 AWell, basically what I'm
 5 saying is that it's a well-known
 6 practice which they sanction. They
 7 know there's no evaluations going on.
 8 They know a lot of reports are false.
 9 QAnd they, once again you're
 10 referring to the board?
 11 ACorrect.
 12 QAnd how does Bushy knowingly
 13 condone and sanction such actions in
 14 retaliation against you, how does
 15 Bushy retaliate against you?
 16 ABecause I told him at the
 17 parole interview and I subsequently
 18 wrote Bushy a letter about that.
 19 QWas Mr. Bushy at your parole
 20 interview?
 21 ANo.
 22 QBut you then wrote him a
 23 letter?
 24 AYes, after I got the green
 25 sheet.

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1 QParagraph 129 states that on
 2 February 17th, you were seen for a
 3 parole interview by Defendants Grow,
 4 Doc, and Moc. And then you allege
 5 that you notified them, paragraph
 6 130, of prison officials intentional
 7 retaliation against him over many
 8 years for filing grievances, legal
 9 actions, and their deliberate
 10 deletion of beneficial data from your
 11 file. What information was deleted
 12 from your files?
 13 AI took a whole bunch of
 14 programs and got certificates and
 15 stuff and they never even included it
 16 in my files they make out for the
 17 board.
 18 QAnd who's they?
 19 AThe DOC.
 20 QWho in the DOC?
 21 AThat would be at Rockview and
 22 Mahanoy.
 23 QWho at Rockview and Mahanoy?
 24 AWhoever made up the files, I
 25 had filed a grievance, like I said,

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<p>1 about the prescriptive program plan. 2 They make out files stating that he 3 didn't participate in his 4 prescriptive program plan when they 5 gave me a prescriptive program plan 6 that I couldn't do. And I had to 7 file a whole bunch of grievances 8 before they even gave me one. 9 QSo you're saying these 10 prescriptive program sheets contain 11 the false information. What contains 12 the false information? 13 AI don't know what contains the 14 false information exactly everything, 15 because I don't have access to the 16 record books. But I know, for 17 example, that they don't write all 18 the programs that I took. 19 QAnd they, once again you're 20 referring to? 21 AFor example, the counselors. 22 QDo you know what counselors? 23 ANot off the top of my head. 24 Counselors, the deputy warden, the 25 warden, the unit manager. Even the</p>	<p>1 AI don't have access to the 2 file. 3 QBut you believe there's 4 information that's missing from your 5 files? 6 AI know there's information 7 missing from my files. 8 QLet's try to list what you 9 think is missing. 10 AThe programs that I took and 11 received certificates for are not 12 included in my records. 13 QWhat were these programs? 14 AI took education programs, 15 took college courses. 16 QWhere did you take these? 17 AI don't even remember, this is 18 over years. 19 QYou took these at ---? 20 ADifferent prisons. 21 QWhat prisons? 22 AI don't even remember. 23 QDo you remember what you took 24 college courses in? 25 A Economics, accounting</p>
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<p>1 persons who interview for parole 2 because I tell them about it and they 3 say it's not in the record. 4 QAnd when did this happen? 5 AAt that interview date that 6 you're talking about did that. 7 QPerhaps I'm being confusing 8 here. When was the information 9 deleted? 10 AHow am I supposed to know 11 that? 12 QThen what do you base the fact 13 on that the information was deleted? 14 ABecause when I go see the 15 board and I tell them about it, they 16 tell me it's not in the files. That 17 means it's deleted. 18 QIn what files? 19 AIn the files that they send to 20 the board. 21 QIs this the DC15 file or ---? 22 AI don't know, I don't have 23 access to the files. 24 QWhat about in your parole 25 file?</p>	<p>1 technology, business administration. 2 QFrom where? 3 AI don't remember. 4 QWhat else is missing from your 5 file? 6 APrograms that I took, like I 7 said. I don't even remember the 8 programs. Impulse control, some 9 other programs, they got weird names 10 for them. 11 QWhat else is missing from your 12 file? 13 AThe fact that a lot of 14 programs that they said I didn't 15 take, I couldn't take because I 16 wasn't allowed to. For example, they 17 told me take education programs. I 18 try to take some education programs, 19 they tell me they don't have anything 20 for me. 21 QAnd who wouldn't let you take 22 those education programs? 23 AIt wasn't that they wouldn't 24 let me take the programs. I write 25 whoever's in charge of the education</p>

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1 department and they tell me we don't
 2 have anything for you.
 3 **Q**And do you remember who you
 4 wrote?
 5 A.No.
 6 **Q**And where was this, what
 7 prison?
 8 A.That was at Rockview.
 9 **Q**And you were at Rockview when?
 10 A.I believe that's Rockview. I
 11 also did it in Mahanoy also.
 12 **Q**And do you remember who at
 13 Mahanoy told you they had nothing for
 14 you?
 15 A.I believe it was a woman named
 16 Ringer. She didn't tell me. She
 17 sent it back.
 18 **Q**And did you submit these to
 19 this Ms. Ringer in writing?
 20 A.Yes, that's what I received a
 21 response in.
 22 **Q**Anything else that was missing
 23 from your files? Do you believe it
 24 was deliberately deleted?
 25 A.Well, the fact that those

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1 evaluation reports never happened for
 2 psychological evaluations. Off the
 3 top of my head I don't know.
 4 **Q**You also state that there is
 5 intentional addition of adverse data
 6 and false data in your files?
 7 A.Yes.
 8 **Q**To ensure adverse parole
 9 recommendations to guarantee parole
 10 denial for the Plaintiff. Can you
 11 tell me what the adverse data and
 12 false data that was added to your
 13 file is?
 14 A.Basically a lot of times I get
 15 locked down. And they write down
 16 that I'm a security problem, that I'm
 17 a troublemaker, and I have an
 18 attitude problem, and I'm a security
 19 threat.
 20 **Q**Who writes that down?
 21 A.I don't know. I don't have
 22 access to the records, but that's
 23 what's in the files.
 24 **Q**And how do you know it's in
 25 the file?

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1 A.Because that's what they said.
 2 **Q**Who's they?
 3 A.Parole Board people.
 4 **Q**Do you know who at the Parole
 5 Board says this?
 6 A.Excuse me?
 7 **Q**Do you know who at the Parole
 8 Board said this?
 9 A.For example, like a guy, Grow,
 10 parole agent Dare (phonetic), he
 11 reviews the stuff and he tells me
 12 what they told him. Now, I don't
 13 know if it's true or not because all
 14 I know is what he tells me. I don't
 15 have access to the files. Well, I
 16 really can't review files and tell
 17 you exactly what's in them or what's
 18 missing from them or what's
 19 inaccurate. I only have, you know,
 20 vague suspicions based on what people
 21 tell me. Now they could be lying, I
 22 don't know.
 23 **Q**You state that you were denied
 24 parole in retaliation for filing your
 25 legal actions and grievances?

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1 A.Yeah.
 2 **Q**How is it retaliation, why do
 3 you say it was retaliation?
 4 A.Because he told me if I ever
 5 expected to make parole, I would have
 6 to stop filing legal actions and
 7 grievances.
 8 **Q**And who told you this?
 9 A.The guy who interviewed me for
 10 parole, him. Grow was there and a
 11 woman was there.
 12 **Q**So it was the three of them?
 13 A.Yes.
 14 **Q**Two of whom you don't know the
 15 names?
 16 A.Correct. And I even tried to
 17 find out the names but they wouldn't
 18 tell me.
 19 **Q**And who is they?
 20 A.The two people whose names I
 21 didn't know at the interview.
 22 **Q**But who asked for the name?
 23 A.I asked him.
 24 **Q**You asked Brett --- strike
 25 that.

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1 At the time that you met with
 2 them, you asked them their names and
 3 they did not tell you; is that
 4 correct?
 5 A.Yes. I also wrote Grow and
 6 tried to find out their identities.
 7 I also wrote the Board and tried to
 8 find out their identities.
 9 Q.And did you receive any
 10 responses?
 11 A.As a matter of fact Grow was
 12 the one that told me to write the
 13 Board for their identities. I also
 14 wrote him and told him that I felt it
 15 was unfair for them to deny me parole
 16 based on the fact that I was filing
 17 legal actions and grievances. He
 18 told me I had to write the Board
 19 about that.
 20 Q.So Grow told you?
 21 A.No, he didn't tell me that, he
 22 wrote that.
 23 Q.Just so I'm following you
 24 here, Grow wrote that you were being
 25 denied parole in retaliation for

1 Islamic literature which was
 2 confiscated by Defendant Gennarini
 3 because of Plaintiff's race and
 4 beliefs. What were the two letters
 5 and the literature?
 6 A.It was Islam literature.
 7 Q.Were there any type of names
 8 to literature?
 9 A.They were like photo copies of
 10 articles on Islam.
 11 Q.And what were the two letters?
 12 A.I don't even recall.
 13 Q.Why do you believe they were
 14 confiscated because of your race or
 15 beliefs?
 16 A.Because Gavin told me, the
 17 security lieutenant, that they don't
 18 allow that Muslim nigger stuff in
 19 there.
 20 Q.Who told you this?
 21 A.Gavin. He said it was gang-
 22 related material.
 23 Q.Did you get any type of ---
 24 did you file a grievance concerning
 25 those letters and literature?

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1 filing legal actions and grievances?
 2 A.I didn't say that. I just
 3 said I wrote him to tell him that I
 4 felt it was unfair for being denied
 5 parole for filing grievances and
 6 lawsuits. And I wanted their
 7 identities because I wanted to appeal
 8 it. He wouldn't give it to me, told
 9 me I had to contact the Board.
 10 Q.You state in your complaint in
 11 paragraph 33 when you noted that he
 12 felt it was unfair to retaliate
 13 against him and allow retaliation
 14 against him for exercising his right,
 15 Defendant Moc stated well, that's how
 16 things are.
 17 A.Right. That's at the time of
 18 the interview.
 19 Q.And one of the people that
 20 would not disclose their identity?
 21 A.Yes.
 22 Q.You also state in your
 23 complaint that in February of 1999,
 24 you received two envelopes in the
 25 mail which contained two letters and

1 A.Yes.
 2 Q.And did you get a response
 3 concerning the literature?
 4 A.I imagine so.
 5 ATTORNEY LEWIS:
 6 And I have here and
 7 we'll attach this as Exhibit
 8 F, a response dated March 4th,
 9 1999, to you.
 10 (Deposition Exhibit F
 11 marked for
 12 identification.)
 13 A.Yeah.
 14 BY ATTORNEY LEWIS:
 15 Q.That's the response that you
 16 received?
 17 A.Yes. That's in response to
 18 the grievance.
 19 Q.So you did receive a response
 20 to that grievance?
 21 A.Well, I just said I didn't
 22 remember.
 23 Q.You stated that Defendant
 24 Gennarini refused to give Plaintiff a
 25 reason for the confiscation, in

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1 paragraph 136, but you did receive a
2 response?

3 A.But they still didn't tell me

4 why they were confiscated.

5 Q.You also state in paragraph

6 138, and this is related to Gavin,

7 that he stated that Plaintiff would

8 be retaliated against via harassment

9 and false misconduct reports for

10 being a, excuse me, these are your

11 words, Muslim nigger, if Plaintiff

12 continued to complain. Plaintiff

13 never received his Islamic

14 literature. You still maintain that

15 that is what Gavin said?

16 A.Yes, that's exactly the way he

17 said it.

18 Q.You state that you would be

19 retaliated against via harassment and

20 false misconduct reports, did that

21 indeed happen?

22 A.Yes.

23 Q.How are you harassed?

24 A.They search my cell all the

25 time.

1 A.The whole issue is that

2 because of my status as so-called

3 jailhouse lawyer when I arrived

4 there, all their actions against were

5 in retaliation for that for filing

6 legal actions and grievances at prior

7 institutions.

8 QSo all the actions you're

9 complaining about are misconducts?

10 A.Yes.

11 Q.They were all in retaliation?

12 A.Yes.

13 QAnd what else?

14 A.Harassment, the denial on

15 property, the denial of my mail,

16 everything I put in my complaint.

17 Q.You say in paragraph 139 that

18 you contacted Defendants Dragovich

19 and Bitner concerning the wrongful

20 confiscation but they sanctioned,

21 condoned and approved of the

22 intentional discriminatory and

23 unlawful confiscation in retaliation

24 for race, beliefs, and filing of

25 grievances and legal actions. You

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1 Q.What else besides searching
2 your cell?

3 A.They search me all the time

4 every time I want to compound.

5 QAnd this why you're in the

6 RHU?

7 A.When?

8 Q.Well, the time frame here is

9 February 25th, 1999, were you in the

10 RHU at that time?

11 A.No.

12 Q.You were in general

13 population. So they searched you all

14 the time and searched your cell, what

15 else?

16 A.That's about it for that.

17 QAnd you said in false

18 misconduct reports. Did you get a

19 false misconduct report as a result

20 of this?

21 A.Basically what that means is

22 in general for the entire time I was

23 there.

24 QAnd the entire time that you

25 were ---.

1 filed a grievance concerning this?

2 A.Yes.

3 QAnd the response was upheld?

4 A.Yes.

5 QAll the way through to Mr.

6 Bitner?

7 A.I don't recall.

8 QSo you don't recall if you

9 appealed the response to that

10 grievance beyond ---?

11 A.Well, more likely than not, I

12 did. I appeal everything if I get

13 it. Even if I don't get it, I

14 appeal.

15 QParagraph 140, excuse me ---

16 you state in paragraph 139 that the

17 confiscation was in relation for your

18 race, beliefs, and filing of legal

19 actions. Why do you believe it was

20 race?

21 A.That's what he said.

22 Q.The confiscation?

23 A.That's what he said.

24 QAnd he is?

25 A.Gavin.

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1 Q And why do you believe it was
 2 based on your beliefs?
 3 A I don't recall anywhere where
 4 Islamic literature was gang-related
 5 material.
 6 Q In paragraph 140, you state
 7 that in January of 1999, you were
 8 refused from the --- excuse me, it's
 9 released from the hole and afterward
 10 discovered numerous items were
 11 missing from your personal property.
 12 Paragraph 141, you say that there
 13 were 12 publications that were
 14 Exhibits in a federal lawsuit. That
 15 you never received any confiscation
 16 forms or reasons as to why your
 17 property was confiscated. Is that
 18 all that was missing were these 12
 19 publications?
 20 A At that instance?
 21 Q Yes.
 22 A There were more items but that
 23 was the only ones I really wanted.
 24 There was some legal work missing and
 25 stuff. But those are the items I

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1 really wanted.
 2 Q Who confiscated this?
 3 A I don't know. They said they
 4 didn't have it.
 5 Q So when you were released from
 6 the hole, you go back into general
 7 population and you're saying that
 8 these publications were not with your
 9 property?
 10 A Correct.
 11 Q Did you receive an inventory
 12 before you went to the hole?
 13 A I don't recall.
 14 Q How did these publications
 15 hamper your third circuit?
 16 A Because they were supposed to
 17 be exhibits.
 18 Q And when did you file your
 19 third circuit court of appeals brief?
 20 A When?
 21 Q Yes.
 22 A That's to be filed --- it's
 23 pending right now.
 24 Q You didn't file a brief on it
 25 yet?

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1 A It's pending.
 2 Q What were these 12
 3 publications, do you remember what
 4 they were?
 5 A At Greene Prison, they
 6 wouldn't let us purchase any
 7 educational books, but they would let
 8 us get hardcore pornography. So I
 9 bought the hardcore pornography and
 10 used them as exhibits because their
 11 rule didn't have any basis in
 12 reality. How can you let us buy
 13 pornographic material but you won't
 14 let us buy any educational material.
 15 Q So these were pornographic
 16 publications?
 17 A And they were all exhibits in
 18 a lawsuit.
 19 Q Do you remember what the
 20 caption of the lawsuit is?
 21 A Seley versus Horn.
 22 Q Did you have a number for it?
 23 That may be difficult. I'll build a
 24 little on that. It's the case that
 25 the third circuit brief is due ---

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1 when is the brief due in this case?
 2 A It's pending now.
 3 Q You already filed the brief?
 4 A No, I'm supposed to file it.
 5 Q This month?
 6 A Next month.
 7 Q And that was in January of
 8 1999, you realized this?
 9 A Does it say that?
 10 Q Well, it says in January of
 11 1999, you were released from the hole
 12 ---.
 13 A Well, that's when it happened.
 14 Q It says that you contacted
 15 Defendants Dotter, Dragovich, Bitner
 16 and Horn but they refused to assist
 17 Plaintiff in retaliation for
 18 Plaintiff's filing grievances and
 19 legal actions. How did they refuse
 20 to assist you?
 21 A Because they didn't even
 22 investigate the grievance, they just
 23 made up said well, you probably
 24 didn't have them. You didn't say
 25 that when you went down into your

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1 property. I seen them when I went
2 down in my property to get my legal
3 work. They were there. They were in
4 my legal material, that's what I told
5 them.

6 QHow did Dotter refuse to
7 assist you?

8 AThat's what I just said.

9 QAll of them the same, Dotter,
10 Dragovich, Bitner, Horn?

11 ADotter is the initial
12 grievance coordinator.

13 QSo all of them, they refused
14 to assist you?

15 AYes.

16 QAnd how is that retaliation?

17 ABecause they did that based on
18 my history for filing grievances and
19 lawsuits for my status as a jailhouse
20 lawyer as I already said before.
21 That's what the whole issue about
22 that pertains.

23 QYou state in paragraph 143
24 that on May 24, 1999, you were
25 wrongfully charged \$2.00 for a

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1 medical visit concerning a chronic
2 condition?

3 ACorrect.

4 QWhat was your chronic
5 condition?

6 AHepatitis.

7 QAnd why do you believe you
8 were wrongfully charged?

9 ABecause you're not supposed to
10 be charged for chronic conditions.

11 QAnd what do you base that on?

12 AThat's the policy.

13 QIs there a policy number that
14 you recall?

15 AI don't recall the policy

16 number. But that's the policy, and
17 there is a policy number.

18 QYou also state in paragraph
19 145 that as a result of the charge,

20 which was improper, you had to pay an
21 additional \$5 surcharge?

22 AYes.

23 QWhat was the \$5 surcharge for?

24 AI don't even remember now.

25 QIt says that --- you say in

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1 paragraph 146 that you contacted
2 Defendants Cerullo, Dotter,
3 Dragovich, and Bitner who all denied
4 the same in retaliation for filing
5 grievances and legal actions. So did
6 you file a grievance concerning this
7 charge?

8 AYes.

9 QAnd do you remember what the
10 response was?

11 ANo.

12 QDo you remember receiving a
13 response?

14 AI don't remember. I don't
15 have any of my property.

16 QAnd when you say you don't
17 have any of your property, what do
18 you mean?

19 ARegarding that civil action.

20 QSo you don't have any of your
21 grievances or complaints?

22 ACorrect.

23 QIn paragraph 147, you state
24 that Defendant ABC Corporation
25 specifically follows a pattern of

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1 practice of discriminatory actions
2 against prisoners. How do they
3 discriminate against prisoners?

4 ABy charging them services that
5 they know they shouldn't be charged
6 for because they know it's so
7 difficult for you to get the money
8 back.

9 QSo when you received your \$2
10 charge or your \$5 charge, it was from
11 this ABC Corporation?

12 ANot the \$5 charge. The \$2 and
13 that was twice.

14 QAnd the \$5 charge was from?

15 AI don't recall.

16 QDo you know of anyone else
17 that was wrongfully charged fees?

18 AWell, it's my experience that
19 they charge prisoners in general
20 things they're not supposed to
21 charge. And basically most people
22 don't do anything about it because
23 you have to go through a whole lot of
24 nonsense to get your \$2 back.

25 QDid you try to get your \$2

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1 back?
 2 A.Yes, both instances.
 3 Q.And did you?
 4 A.No.
 5 Q.Were you told why?
 6 A.No.
 7 Q.And who did you complain to?
 8 A.I don't even recall. I know I
 9 wrote Cerullo up and then I filed a
 10 grievance. I don't recall exactly
 11 --- like I said, I don't have any of
 12 my property for the civil action.
 13 Q.Paragraph 152, you state that
 14 on February 11th, you ordered a pair
 15 of prescription eye glasses. On the
 16 same date you dispatched a written
 17 communication requesting that the
 18 lenses be made photo-grey. But
 19 Defendant Foe refused to alter or
 20 cancel the order to deny this money.
 21 Did you order photo-grey lenses?
 22 A.Yes.
 23 Q.Do you know if photo-grey
 24 lenses are permitted?
 25 A.Yes.

1 A.Do you want me to read out
 2 loud?
 3 Q.Yes.
 4 A.You did not sign a cash for
 5 photo-grey lenses therefore they were
 6 not ordered. You cannot change your
 7 order after the fact.
 8 Q.So you did receive a response
 9 from SCI Mahanoy staff and Ms.
 10 Cerullo concerning your photo-grey
 11 lenses?
 12 A.Yes.
 13 Q.And did you appeal this?
 14 A.Yes. I probably did. I don't
 15 recall. But like I said, more likely
 16 than not, I did. I appeal
 17 everything.
 18 Q.I can show you this exhibit.
 19 You did appeal through a specific G
 20 and you received a response on April
 21 12, 1999, from Robert Bitner, the
 22 Chief Hearing Examiner; is that
 23 correct?
 24 A.Yes.
 25 Q.And he ---.

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1 Q.Are they?
 2 A.Yes.
 3 Q.Do you know who Defendant Foe
 4 is?
 5 A.No.
 6 Q.What did he tell you?
 7 A.He didn't tell me anything, I
 8 wrote him.
 9 Q.And did he allow you to change
 10 your order?
 11 A.No.
 12 Q.Did you receive a reason why
 13 you were not allowed to change the
 14 order?
 15 A.He just told me I couldn't.
 16 Q.Did you file a grievance
 17 concerning the eye glasses?
 18 A.Yes.
 19 Q.Do you remember receiving a
 20 response from Ms. Cerullo concerning
 21 that grievance?
 22 A.No.
 23 Q.Dated March 4th, let me show
 24 you a copy of that. Do you want to
 25 read the first paragraph.

1 A.Sustained it.
 2 Q.Yes, he sustained your
 3 appeals, thank you. This will be
 4 Exhibit G.
 5 (Deposition Exhibit G
 6 marked for
 7 identification.)
 8 A.I never got the glasses or my
 9 money.
 10 BY ATTORNEY LEWIS:
 11 Q.You state in paragraph 154
 12 that the AAA Corporation has a
 13 pattern in practice of policy of
 14 discrimination by not allowing
 15 Plaintiff a refund because he is a
 16 prisoner but allowing refunds to
 17 others.
 18 A.Correct.
 19 Q.What would you base that on?
 20 A.The company has a refund
 21 policy which they do not follow for
 22 prisoners. That's discriminatory.
 23 Q.Did you seek a refund from the
 24 Corporation?
 25 A.No. I did through their

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1 employees. You mean did I write the
 2 CEO or president? No.
 3 Q.You sought through the
 4 employees. And the employees were
 5 here at SCI Mahanoy?
 6 A.At Mahanoy.
 7 QLet's talk a little bit about
 8 paragraph 155, which you said you're
 9 going to drop, that on April 15th, a
 10 guitar bag was confiscated from your
 11 mail by prison officials despite the
 12 fact that such items were permitted
 13 and Plaintiff had received prior
 14 approval from prison officials to
 15 purchase one. Do you still maintain
 16 that's correct?
 17 A.That's correct.
 18 QHow do you know that this
 19 guitar bag was permitted?
 20 A.Because a lot of other people
 21 had them.
 22 QSame kind of guitar bag?
 23 A.Yes.
 24 QExactly the same bag?
 25 A.Not exactly but basically the

1 grievance?
 2 A.Yes, but that never happened.
 3 QParagraph 7 of the response to
 4 the grievance from Lieutenant Mahally
 5 says that in regard to your grievance
 6 concerning your guitar case, I
 7 informed you my reply to request
 8 dated 4/21/99, this particular case
 9 has excessive soft padding which
 10 raises some security concerns. These
 11 concerns are specific to the
 12 concealment of contraband. For this
 13 reason they are not authorized to
 14 enter the institution.
 15 A.That wasn't true though, other
 16 prisoners had that.
 17 Q.Well, in the following
 18 paragraph he says that the guitar
 19 bags that resembles this same style
 20 that are already inside the
 21 institution will be removed through
 22 attrition and as these inmates leave
 23 the institution.
 24 A.But that's not true.
 25 QDo you remember receiving this

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1 same form, type.
 2 QAnd you received prior
 3 approval from prison officials to
 4 purchase this bag?
 5 A.Correct.
 6 QDid you have a guitar bag like
 7 this in any other institution?
 8 A.No, I had a case, had a hard
 9 shell case.
 10 QAnd did you file a grievance
 11 concerning this guitar bag?
 12 A.Yes.
 13 QAnd do you recall receiving a
 14 response to the grievance?
 15 A.Vaguely.
 16 ATTORNEY LEWIS:
 17 I'll show you what
 18 we'll mark as Exhibit H. It's
 19 a response to grievance number
 20 NAHO14699.
 21 (Deposition Exhibit H
 22 marked for
 23 identification.)
 24 BY ATTORNEY LEWIS:
 25 QAre you familiar with this

1 response?
 2 A.I do but that's a lie.
 3 QAnd why do you believe it's a
 4 lie?
 5 A.Because it is. They didn't
 6 confiscate bags when you left.
 7 Q.What do you mean they didn't
 8 confiscate bags when you left?
 9 A.They don't confiscate the
 10 guitar bags when you leave.
 11 QLeave the institution?
 12 A.Exactly, that's what they mean
 13 when they say by process of
 14 attrition.
 15 QBut leaving to go where?
 16 A.See another prison.
 17 QOr to go home?
 18 A.To go home they're going to
 19 send it home. Regarding transfers to
 20 different institutions, that's what
 21 he meant. They were going to
 22 confiscate them because you're not
 23 allowed to have them by attrition.
 24 But they didn't do that and they
 25 don't do that.

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1 QI'm going to mark this as
 2 Exhibit H. And did you appeal this
 3 grievance, do you recall?
 4 A.Yes. I don't recall it. But
 5 99 percent of the time, I appeal
 6 everything. Did I mark that down?
 7 Q.Yes, I'm just reviewing them.
 8 Yes, you did mark those two down.
 9 AI was going to say because I
 10 wasn't even going to raise that issue
 11 anyway. But the fact is, like I
 12 said, that's a lie because I got my
 13 bag.
 14 Q.You said that you have yet to
 15 be reimbursed --- to receive or be
 16 reimbursed for his intentionally
 17 stolen guitar bag.
 18 A.Yeah, they gave it to me.
 19 They didn't at the time of the
 20 complaint. But they gave it to me
 21 subsequent to that.
 22 Q.They gave you the guitar bag?
 23 A.Yes.
 24 QSo you now have the guitar
 25 bag?

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1 A.Yes.
 2 QStated on January 15th, 1999,
 3 that you purchased a radio from the
 4 prison store.
 5 A.That's correct.
 6 Q.You also alleged that the
 7 Defendant or state the Defendant
 8 Birozak in retaliation for Plaintiff
 9 filing prison grievances then ordered
 10 Plaintiff to send the radio out at
 11 Plaintiff's expense to an outside
 12 private store for a refund.
 13 A.That's true.
 14 Q.Despite the fact that
 15 Plaintiff did not purchase it from
 16 the store but from prison store?
 17 A.Correct.
 18 QExplain to me what happened
 19 about this radio?
 20 A.That's what happened. First,
 21 the radio, it wasn't the radio I
 22 ordered. He told me I had to send it
 23 to some store to get the money back.
 24 But I didn't buy it from that store.
 25 I bought it from that store.

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1 QAnd then what happened when
 2 you tried to ---?
 3 A.That was a lie he told me.
 4 You didn't have to do that. Then
 5 when I sent it out they sent a
 6 different radio, and I didn't ask for
 7 no other radio. I wanted my money
 8 back. He told me I had to send it
 9 out again. And I kept telling him I
 10 didn't order it from that store, I
 11 ordered from commissary.
 12 QSo did you take the radio back
 13 to commissary?
 14 AHow can I take the radio back
 15 when they have the radio?
 16 QThe radio's confiscated?
 17 A.Yes.
 18 QAnd you never received the
 19 radio back?
 20 AI never had the radio, the
 21 radio came --- you go to the property
 22 room to get your radio. I never had
 23 a radio, they had a radio. The radio
 24 came and I said I didn't order that.
 25 QSo you did look at the radio?

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1 A.Yes.
 2 QSo you looked at the radio.
 3 A.And I told him I didn't want
 4 that. He told me you got to send it
 5 out to get your money back to the
 6 store. I told him I didn't send that
 7 out, excuse me --- strike that.
 8 I didn't purchase it from the
 9 store. I purchased it from
 10 commissary. He told me that's their
 11 policy.
 12 QWhen did you purchase the
 13 radio from commissary?
 14 AAbout --- weeks before that.
 15 QAnd then the radio came in,
 16 you mean when you went to the
 17 commissary, there wasn't a radio
 18 there for you?
 19 A.You don't get them at the
 20 commissary, you purchase them at the
 21 commissary. You have to go to the
 22 property room to get them.
 23 QSo when you went to the
 24 property room it was the wrong radio?
 25 A.Right.

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1 QAnd then you were told by
 2 Birosak that you had to send it back?
 3 ARight. Well, he didn't tell
 4 me to send it back. He told me I had
 5 to send it to the store. I told him
 6 I didn't buy it from that store, I
 7 bought it at the commissary.
 8 QSo you didn't get a radio
 9 anyways but you were charged for a
 10 radio?
 11 ACorrect.
 12 QSo than what happened, did you
 13 get a radio?
 14 ANo.
 15 QAnd then what happened to the
 16 amount you were charged?
 17 AHow am I supposed to know?
 18 QSo you never were refunded for
 19 your radio?
 20 ACorrect.
 21 QYou state that on August 27th,
 22 1999, your cell was searched and
 23 legal materials were read by
 24 Defendant Dropinsky?
 25 AYes.

1 166 through number 171, excuse me,
 2 you state that you're going to drop;
 3 is that correct?
 4 AYes.
 5 QWhy would Defendant Dropinsky
 6 say those things to you?
 7 AI don't know what's in his
 8 head.
 9 QDid you know Dropinsky from
 10 before?
 11 AFrom before what?
 12 QBefore coming to Mahanoy?
 13 ANo.
 14 QDid you know him while you
 15 were at Mahanoy?
 16 AHe worked our block at times.
 17 QDid you ever have any prior
 18 contact with him?
 19 ANot that I recall. What do
 20 you mean contact?
 21 QAny conversations, any type of
 22 confrontation?
 23 ANot that I remember.
 24 QDo you know why he would have
 25 told you to throw all your legal

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1 QYou further state that he
 2 ordered you to throw out all of your
 3 legal material in the trash can, save
 4 for one folder.
 5 ACorrect.
 6 QBecause Plaintiff would be
 7 going to trial soon for a federal
 8 lawsuit against numerous DOC
 9 employees.
 10 ACorrect.
 11 QDid you throw out legal
 12 material?
 13 ANo.
 14 QWhat happened?
 15 AHe gave me a false misconduct
 16 report, said I threatened him.
 17 QAnd what else did he do?
 18 AHe was walking around when I
 19 was locked in my cell, talking about
 20 he was going to kill me, call me a
 21 fuckin' nigger and all that. That's
 22 before they took me to the hole
 23 because I was still on the block
 24 then.
 25 QNow, these paragraphs numbered

1 materials in the trash can?
 2 AYeah.
 3 QWhy?
 4 ABecause somehow he knew I was
 5 getting ready to go to Court for a
 6 lawsuit and he wanted me to throw
 7 away my legal work, that's what he
 8 said.
 9 QYou state that you informed
 10 Defendant Hoe, via cell intercom ---
 11 AYeah, that was the Sergeant.
 12 Q--- of the retaliatory and
 13 racially-motivated assault on his
 14 person but was told by the Defendant
 15 so what, in retaliation for filing
 16 prison grievances and legal
 17 materials.
 18 AThat was through the intercom.
 19 QSo he said so what through the
 20 intercom?
 21 ACorrect.
 22 QOn the block?
 23 AYes.
 24 QEverybody heard this?
 25 AHow could everybody hear, this

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1 was in the cell intercom.
 2 QIt was just in your cell?
 3 AYes, all the cells in the
 4 level four unit.
 5 QDo you still maintain that
 6 that's true?
 7 AYes.
 8 QYou allege in paragraph 169
 9 that you, again, attempted to speak
 10 to a supervisory officer by notifying
 11 Defendant Hoe via cell intercom, but
 12 was informed by Hoe that he got what
 13 he deserved and was locked in his
 14 cell pursuant to Defendant Foe's
 15 orders.
 16 ACorrect.
 17 QDo you know who Defendant Foe
 18 is?
 19 AHe was the Sergeant working
 20 that night.
 21 QSergeant working on August
 22 27th, 1999?
 23 ACorrect.
 24 QYou also allege that Dropinsky
 25 would then periodically come to your

1 planned misconduct report in
 2 retaliation for Plaintiff's filing
 3 legal actions against prison
 4 officials. Why do you believe that
 5 the misconduct was false?
 6 ABecause it didn't happen.
 7 QAnd who was part of this
 8 conspiracy?
 9 AThe sergeant, Lieutenant
 10 Dropinsky, and whoever else put them
 11 up to it. The Hearing Examiner, the
 12 program review committee, Dragovich,
 13 Bitner, and Horn.
 14 QThey were all a part of this
 15 conspiracy that you allege?
 16 AYes.
 17 QParagraph 172, you state that
 18 on August 30th, you had a hearing
 19 before Defendant Kane who refused to
 20 even read your written version and
 21 stated that Plaintiff should not have
 22 been bothered writing one because his
 23 officers do not lie; correct?
 24 ACorrect.
 25 QState that Defendant Kane

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1 cell door ---.
 2 AThat's what I just said and I
 3 didn't allege nothing.
 4 QYou state that he would come
 5 to his cell door and taunt and
 6 threaten him with death and refer to
 7 him as a, your words, nigger among
 8 other things.
 9 AThat wasn't my words that was
 10 his words.
 11 QWords in your complaint,
 12 excuse me, --- among other things and
 13 told Plaintiff he would not make
 14 parole.
 15 ACorrect.
 16 QDo you know why he would ---?
 17 AI don't even know how he knew
 18 I was coming up for parole. I don't
 19 know what's in his head. I can't.
 20 I'm not psychic.
 21 QIn paragraph 171, another
 22 paragraph that you state you will
 23 drop, you state in the complaint that
 24 you were thrown in the hole and
 25 received a false and conspiratorially

1 refused to comply with state
 2 regulations, DOC policy, and state
 3 law because of his status as a
 4 prisoner?
 5 ACorrect.
 6 QWhat policy did Defendant Kane
 7 not follow?
 8 AWhich policy?
 9 QUh-huh (yes).
 10 AIs that 801?
 11 QIs that what you believe he
 12 didn't follow?
 13 AI'm not sure off the top of my
 14 head, but the policy regarding
 15 conducting disciplinary hearings.
 16 QHow didn't he follow that
 17 policy?
 18 ABecause he was supposed to be
 19 an impartial tribunal. He was
 20 supposed to allow me to offer
 21 evidence. He was supposed to take my
 22 defenses into consideration. He
 23 didn't do any of those things.
 24 QYou also allege that he
 25 refused to comply with state

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1 regulations, what state regulation?

2 A.That's Title 37. Pennsylvania

3 Code 92, 93.

4 QAnd how didn't he comply with
5 that?

6 A.Those regulations are what the

7 DOC policy are based on, there's six

8 things they're supposed to do. A few

9 of them are just what I just said.

10 QAnd how didn't he follow the
11 state law, how do you believe he
12 didn't follow state law?

13 A.Well, that's all based on the

14 same thing.

15 QSame thing as what?

16 A.He's supposed to be an

17 impartial tribunal. He had an

18 obligation legally not to

19 capriciously and arbitrarily punish

20 me.

21 QParagraph 173, you state that

22 Defendant Kane has a long and well-

23 known bias against the above. I'm

24 not sure what you mean by above, can

25 you tell me what you mean by above?

1 A.What do you mean how do they

2 know?

3 Q.What do they base that

4 knowledge on?

5 A.Well, for example, you make

6 black prisoners pay more to get out

7 of misconducts than white prisoners.

8 QKane did?

9 A.Yes.

10 QDo you know who and what

11 misconducts?

12 A.This is in general. We were

13 able to buy our way out of

14 misconducts while we were down at

15 Graterford.

16 QHow did you do that?

17 A.You had to pay the inmate and

18 the inmate would give the money to

19 Kane.

20 QWho was the inmate that you

21 paid?

22 A.His real name I forget.

23 That's like six years ago.

24 QYou also state in paragraph

25 132 that it is believed that the

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1 AI don t know.

2 QDo you want to look at

3 paragraph 173.

4 A.Black prisoners, Muslims.

5 QThat's who he has a bias

6 against?

7 A.Yes.

8 QExplain that to me, how do you

9 know that he has a long and well

10 known ---?

11 A.Well, he was a Hearing

12 Examiner down at Graterford when I

13 was down there.

14 QAnd what did he do that leads

15 you to believe that he has this long

16 and well-known bias?

17 A.That's just general

18 information when you're down there.

19 That's what everybody knows.

20 QWho's everybody?

21 A.Us, the prisoners.

22 QEverybody at Graterford knows?

23 A.That was there at the time,

24 that they knew.

25 QHow do they know?

1 inmate bias stems from the killing of

2 his father by a black prisoner who

3 was a Muslim?

4 A.Correct.

5 QDo you know that for a fact?

6 A.Yes.

7 QSo you're saying that

8 Defendant Kane's father was killed by

9 a --- is that what your saying?

10 A.Yes, that's what they say.

11 QWho says?

12 A.That was according to my

13 information.

14 QDo you know if that's true?

15 AI don't know. I said it was

16 from my information. I couldn't

17 verify it because I couldn't get any

18 discovery. I didn't have the

19 complaint.

20 QIn paragraph 174, you state

21 that you appealed the decisions to

22 Dragovich, Corbacio, Wildenstein,

23 Hornung, and Bitner, but they refused

24 to address Plaintiff's issue in

25 retaliation for filing grievances and

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1 legal actions because of his status
2 as a prisoner. How did they
3 retaliate?

4 A.Once again, they didn't even
5 investigate the appeal or address it
6 in any significant matter.

7 Q.What made you believe that
8 this was retaliation?

9 A.What led me to believe that
10 this was retaliation? The misconduct
11 I just got was from the dude who told
12 me to throw away all my legal
13 property because I'm getting ready to
14 go for a lawsuit and called me all
15 type of nigger. That's what he told
16 me. Now, what do you think?

17 Q.So that's what you base ---?

18 A.No, I base it on the entire
19 time I was at Mahanoy as I already
20 told you.

21 Q.You state that on August 31st,
22 1991, you found out that a large
23 percentage of your personal property
24 was missing including almost all of
25 your legal materials; correct?

1 A.That had to do mostly with the
2 lawsuits in the Western District.
3 Q.And what type of ---?
4 A.It was the Western District or
5 Middle District cases, the one for
6 '92 and the Western District was for,
7 I believe, '96 or '97.

8 Q.And what type of materials
9 were they?

10 A.They were mostly research
11 stuff.

12 Q.What type of research stuff?

13 A.The research I was doing for
14 the legal action, discovery
15 materials, my records, motions from
16 me, the Defendants, orders from the
17 Court. Pretty much the
18 documentations is what --- the
19 filings for those actions and my
20 research and stuff.

21 Q.And did you file a grievance
22 concerning this?

23 A.Yes.

24 Q.And what happened as a result
25 of this grievance?

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1 A.Correct.

2 Q.This is another incident?

3 A.Yes, that's a different
4 incident.

5 Q.And what's that incident?

6 What are the facts surrounding that
7 incident about legal materials?

8 A.It was --- I forget exactly
9 how much but it was a large
10 percentage of my legal property
11 missing.

12 Q.And how did you find out that
13 it was missing?

14 A.Because it wasn't on my
15 property sheet. And then they later
16 on let me inventory it, I believe.

17 Q.At this time in August of
18 1999, were you in the RHU?

19 A.Yes.

20 Q.And where was this property?

21 A.I don't know.

22 Q.Do you know what the property
23 was?

24 A.Yeah, my legal work.

25 Q.What type of legal work?

1 A.I don't remember.

2 Q.You also state that you
3 believe that the legal material was
4 intentionally taken by Defendant
5 Dropinsky in retaliation?

6 A.Yes.

7 Q.What do you base that on?

8 A.That's what he told me.
9 That's the same stuff he was telling
10 me to throw away. And then it comes
11 up missing.

12 Q.Well, this then reverts back
13 to ---?

14 A.The entire time I was at
15 Mahanoy like I said before. It was
16 all based on my status as a jailhouse
17 attorney.

18 Q.So you believe ---?

19 A.No, I don't believe nothing.

20 Q.You state here that you
21 believe, Plaintiff believes.

22 A.Yeah, I got to say that.

23 Q.But you don't know that?

24 A.Oh, I know because he told me.

25 Q.And when did he tell you?

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1 A.This was later on before I
 2 went to Court. I put a grievance in
 3 for that. I never got it back
 4 because I went to Court. And I put
 5 witnesses down for that.
 6 Q.You also state that your other
 7 missing property includes a chess
 8 set, numerous magazines, books,
 9 magazines, approximately eight which
 10 were Exhibits and legal actions,
 11 among other things.
 12 A.Right.
 13 Q.What were the ---?
 14 A.The other eight?
 15 Q.Yes.
 16 A.Books, or magazines rather,
 17 were the remainder of the Exhibits
 18 for the Third Circuit. As for the
 19 other books and stuff and magazines,
 20 those were my personal books. They
 21 were stuff on like technical analysis
 22 and stuff and the chess set that was
 23 my chess set.
 24 Q.Did you file a grievance
 25 concerning this?

1 Q.What do you base your
 2 statement in paragraph 181 on? You
 3 said in all instances regarding
 4 discipline the relevant Defendant had
 5 a duty to ensure that Plaintiff was
 6 not punished capriciously or
 7 arbitrarily or because of his race or
 8 beliefs or his status as a prisoner.
 9 My question is, what do you base on
 10 the fact that you were punished
 11 because of your race?
 12 A.Because I was set up because
 13 I'm black.
 14 Q.And why do you believe that?
 15 A.Well, when they call me all
 16 type of niggers I'm wondering, would
 17 they do that if I was white.
 18 Q.And what about your beliefs,
 19 what beliefs are you talking about?
 20 A.That is regarding them taking
 21 my mail because it's Islamic
 22 literature. And also ---.
 23 Q.All right. Go ahead.
 24 A.The food.
 25 Q.It was based on your religious

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1 A.Yes.
 2 Q.And what happened as a result
 3 of the grievance?
 4 A.Nothing.
 5 Q.You state in paragraph 179
 6 that you have been unable to
 7 adequately check your property to
 8 ascertain what is missing as of this
 9 date.
 10 A.Correct.
 11 Q.Did you ask to inventory your
 12 property?
 13 A.Yes.
 14 Q.And were you permitted to?
 15 A.Not at that time.
 16 Q.This is at SCI Mahanoy;
 17 correct?
 18 A.Yes.
 19 Q.Did you file a grievance
 20 concerning that?
 21 A.I don't recall. I included it
 22 in the grievance I remember that.
 23 Q.And do you remember when you
 24 would have filed this grievance?
 25 A.I don't remember.

1 belief?
 2 A.Yes.
 3 Q.You state in paragraph 183
 4 that you exhausted all of the
 5 available administrative remedies as
 6 far as you were permitted or allowed.
 7 A.Correct.
 8 Q.And all the misconducts that
 9 you state you received in this
 10 complaint, you exhausted all of them?
 11 A.I don't really know right now
 12 to tell you. Like I said 99 percent
 13 of the time I appeal everything. Even
 14 if I don't get an answer back, I
 15 appeal to the next level.
 16 Q.What I'm going to do now is
 17 I'm going go through all the
 18 individual Defendants and ask you
 19 just a few questions about them. You
 20 named Conway Bushey as a Defendant,
 21 can you tell me how Mr. Bushey
 22 violated your constitutional rights?
 23 A.He filed --- followed his
 24 agency practice of denying me parole
 25 based on information he knows is

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1 false or it was defeated and
 2 retaliated against me for filing
 3 legal actions and grievances.
 4 **Q**And did Mr. Bushey retaliate
 5 against you?
 6 **A**Because he didn't do anything
 7 when I wrote him.
 8 **Q**Is there anything else that he
 9 did or didn't do?
 10 **A**No, that's the extent for him.
 11 **Q**Also named Robert Meyers as a
 12 Defendant in this case. Can you tell
 13 me how Mr. Meyers violated your
 14 constitutional rights?
 15 **A**He retaliated against me for
 16 my status as a jailhouse lawyer, set
 17 me up, refused to address my
 18 grievances, all because, like I said,
 19 my status as jailhouse lawyer and
 20 because I'm black.
 21 **Q**Did he do anything else --- is
 22 there anything else that Mr. Meyers
 23 did?
 24 **A**Aside from what I already
 25 stated?

1 **Q**The statement that you made
 2 that he found you guilty, he being
 3 the ---?
 4 **A**Hearing Examiner Mitchell.
 5 **Q**What about Defendant Mazzotta?
 6 **A**He's the grievance
 7 coordinator.
 8 **Q**And what did he do?
 9 **A**He deliberately refused to
 10 address any of the grievances in
 11 retaliation for me being black and
 12 because my history as a jailhouse
 13 lawyer.
 14 **Q**And what did he do in
 15 retaliation?
 16 **A**He denied my grievances and
 17 covered up the incidents.
 18 **Q**You also named Sara Craig,
 19 what did she do?
 20 **A**She filed a false
 21 psychological evaluation report for
 22 the DOC and Parole Board.
 23 **Q**And how did that violate your
 24 constitutional right?
 25 **A**I have a constitutional right

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1 **Q**Uh-huh (yes).
 2 **A**Not that I can recall right
 3 now.
 4 **Q**How about Terry Whitman?
 5 **A**That's similar to what I just
 6 said, he's the Deputy Warden.
 7 **Q**And what did he do?
 8 **A**The same thing I just said
 9 regarding Meyers.
 10 **Q**Same thing as Meyers. What
 11 about Gregory Gaertner?
 12 **A**That's similar, like I said,
 13 they all set me up to get me out of
 14 the jail, found me guilty of
 15 misconducts. They knew the guy was a
 16 racist. They knew there wasn't no
 17 evidence to find him guilty of that.
 18 **Q**And how did he retaliate
 19 against you?
 20 **A**That was the retaliation.
 21 **Q**The set up?
 22 **A**Yes.
 23 **Q**The alleged --- the statement
 24 stating that you ---?
 25 **A**I didn't allege nothing.

1 to have accurate information in my
 2 prison parole files, and not be
 3 denied parole based on false and
 4 inaccurate information.
 5 **Q**And how did Ms. Craig
 6 retaliate against you?
 7 **A**I just said what she did and
 8 that was in retaliation for my being
 9 a jailhouse lawyer.
 10 **Q**You named Charles Mitchell as
 11 a Defendant, what did he do to
 12 violate your constitutional rights?
 13 **A**Found me guilty of misconduct
 14 report when he knew I was innocent
 15 because I'm black.
 16 **Q**And how did he retaliate?
 17 **A**That's what I just said.
 18 **Q**Is that all he did in
 19 retaliation?
 20 **A**Called me all type of niggers
 21 and stuff.
 22 **Q**You also name a Tressler,
 23 T-R-E-S-S-L-E-R?
 24 **A**Yes.
 25 **Q**How did he violate your

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1 constitutional right?
 2 AHe helped cover up the
 3 incident.
 4 QWhat incident?
 5 AThe incident about Mitchell
 6 calling me a nigger.
 7 QAnd did he retaliate against
 8 you?
 9 AThat was the retaliation.
 10 QAnything else?
 11 ANo, not for that.
 12 QYou also name an individual by
 13 the name of Wakefield,
 14 W-A-K-E-F-I-E-L-D, as a Defendant.
 15 AYes.
 16 QCan you tell me how they
 17 violated your constitutional rights?
 18 AThose were, I believe, on the
 19 grievances or appeals.
 20 QAnd what did they do?
 21 AI already said, denying
 22 appeals, not investigating them based
 23 on the fact that I'm black and
 24 because of my history as a jailhouse
 25 lawyer.

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1 QAnd what do you base your
 2 retaliation on?
 3 AHis actions and inactions.
 4 QAnything else?
 5 ANo.
 6 QYou also name Defendant Horn.
 7 ACorrect.
 8 QCan you tell me how he
 9 violated your constitutional rights?
 10 ABecause he didn't do anything
 11 about it. He knew what was going on
 12 and he deliberately condoned and
 13 sanctioned the actions against me.
 14 QAnd what did he know what was
 15 going on?
 16 AEverything in the complaint.
 17 QHe knew about everything in
 18 the complaint? And how did he
 19 retaliate?
 20 ABy his inactions.
 21 QAnything else that Defendant
 22 Horn did?
 23 AI can't recall right now.
 24 QYou name Robert Bitner as a
 25 Defendant, can you tell me how Robert

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1 Bitner violated your constitutional
 2 rights?
 3 AHe did not investigate
 4 appeals, the misconducts, and
 5 grievances based on the fact of my
 6 race and history as a jailhouse
 7 lawyer. He did it in retaliation for
 8 my history of that. He knew that
 9 stuff didn't go on and he just went
 10 along and did it.
 11 QWhat about Defendant
 12 Dragovich, how did he violate your
 13 constitutional rights?
 14 ASame thing. Just what I just
 15 said.
 16 QExactly the same thing, he
 17 didn't investigate?
 18 AExactly.
 19 QAnything else, anything in
 20 addition?
 21 ANot that I can think of right
 22 now.
 23 QYou also name Carol Dotter as
 24 Defendant. How did she violate your
 25 constitutional rights?

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1 AWhat I just said for them
 2 about the initial grievances.
 3 QAnything else?
 4 AShe covered up stuff. The
 5 same thing I was saying about
 6 everybody.
 7 QWhat do you base your
 8 allegation of retaliation on
 9 concerning Ms. Dotter?
 10 AShe refused all the grievances
 11 just based on the fact of my history
 12 as a jailhouse attorney and because
 13 my race, for filing legal action and
 14 grievances prior to that.
 15 QAnything else?
 16 ANot that I can think of right
 17 now.
 18 QYou also named K. Breon, B-R-
 19 E-O-N, how did he violate your
 20 constitutional rights?
 21 ABy finding me guilty of a
 22 misconduct report based on my status
 23 as a jailhouse lawyer and because of
 24 my race.
 25 QAnd how did he retaliate?

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1 A. That's what I just said.
 2 Q. You're saying that he
 3 retaliated by finding you guilty and
 4 his retaliation was based on the fact
 5 that you're a jailhouse lawyer?
 6 A. And ---.
 7 Q. You tell me.
 8 A. Because of my race.
 9 Q. Anything else about Mr. Breon?
 10 A. Not off the top of my head.
 11 Q. You also name J. Kevin Kane as
 12 a Defendant, can you tell how ---?
 13 A. It's the same thing for Breon.
 14 Q. Anything else?
 15 A. No, not right now.
 16 Q. You also name Novotney,
 17 N-O-V-O-T-N-E-Y, can you tell me how
 18 he violated your constitutional
 19 rights?
 20 A. He didn't do anything about
 21 the appeals. It was sent to him
 22 based on my history as a jailhouse
 23 lawyer and because of my race all in
 24 retaliation for same.
 25 Q. Anything else about Mr.

1 Q. Do you want to put on record
 2 how he did violate your
 3 constitutional rights?
 4 A. I'm not playing, I'm dropping
 5 it anyway.
 6 Q. You name Marva Cerullo as a
 7 Defendant, can you tell me how she
 8 violated your constitutional rights?
 9 A. She refused to address my
 10 grievances and give me back my money
 11 all because my history as a jailhouse
 12 lawyer.
 13 Q. Anything else about her?
 14 A. No.
 15 Q. You also name a Richard
 16 Spaide, S-P-A-I-D-E.
 17 A. The appeals.
 18 Q. As a Defendant, how did he
 19 violate your constitutional rights?
 20 A. He didn't address my
 21 misconduct appeal because of my
 22 history as a jailhouse lawyer and my
 23 race.
 24 Q. Anything else about Mr.
 25 Spaide?

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1 Novotney?
 2 A. Not right now.
 3 Q. You also name Mr. Dennison,
 4 D-E-N-N-I-S-O-N, as a Defendant, can
 5 you tell me how he violated your
 6 constitutional rights?
 7 A. Because he intentionally lied
 8 to me regarding the psychological
 9 evaluation report. He made up a
 10 false psychological evaluation report
 11 which resulted in adverse parole
 12 ability.
 13 Q. And how did he retaliate and
 14 what was his retaliation based on?
 15 A. My history as a jailhouse
 16 lawyer and because of my race.
 17 Q. Anything else?
 18 A. No.
 19 Q. Concerning Mr. Dennison?
 20 A. Dennison, no.
 21 Q. You also name Mr. Chesney as a
 22 Defendant, can you tell me how he
 23 violated your constitutional rights?
 24 A. Well, I'm dropping that
 25 anyway.

1 A. Regarding?
 2 Q. The complaint that you filed,
 3 regarding his actions or inactions?
 4 A. They're all based on
 5 retaliation.
 6 Q. Anything else that Mr. Spaide
 7 did?
 8 A. No.
 9 Q. You also name Robert Yarnell
 10 as a Defendant.
 11 A. Yes.
 12 Q. Can you tell me how he
 13 violated your constitutional rights?
 14 A. He didn't address my grievance
 15 because my history as a jailhouse
 16 lawyer and because of my race.
 17 Q. Anything else that ---?
 18 A. He violated my first amendment
 19 rights.
 20 Q. How did he violate your first
 21 amendment right?
 22 A. Because he wouldn't address
 23 the grievance.
 24 Q. Anything else that Mr. Yarnell
 25 did?

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1 A.Regarding?
 2 Q>Your complaint.
 3 A.It's in the complaint.
 4 Q.Other than what's in the
 5 complaint, there's nothing else?
 6 A.No.
 7 Q.Sally Gennarini, how did she
 8 violate your constitutional rights?
 9 A.By confiscating my mail
 10 because of my race and my release.
 11 Q.Anything else?
 12 A.No.
 13 Q.You also name James Unell,
 14 U-N-E-L-L, how did he violate your
 15 constitutional rights?
 16 A.Because he sanctioned and
 17 approved of false evaluation reports
 18 by his agent, Dennison.
 19 Q.And how did he retaliate?
 20 A.That was in retaliation.
 21 Q.Based on?
 22 A.His sanctioning and covering
 23 up reporting, Dennison's false
 24 evaluation report and lies.
 25 Q.Anything else Mr. Unell did?

1 A.No.
 2 Q.You also name a Youron,
 3 Y-O-U-R-O-N, how did he violate your
 4 constitutional rights?
 5 A.Is Youron at Mahanoy or
 6 Rockview?
 7 Q.In your complaint you have an
 8 M.S.P.
 9 A.That was the same thing that
 10 he did for, --- no, he sanctioned and
 11 approved the false psychological
 12 evaluation report Dennison put in, he
 13 was his supervisor.
 14 Q.And how was that retaliation?
 15 A.He did that because of my
 16 history.
 17 Q>Your history?
 18 A.As a jailhouse lawyer.
 19 Q.Is there anything else Mr.
 20 Youron did?
 21 A.No.
 22 Q.And you name an Eichenberg,
 23 E-I-C-H-E-N-B---?
 24 A.I'm dropping him.
 25 Q.You're dropping him?

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1 A.No.
 2 Q.You also named James Corbacio,
 3 C-O-R-B-A-C-I-O, what did he do to
 4 violate your constitutional rights?
 5 A.I believe he was on the appeal
 6 --- I'm not sure, like I said I
 7 didn't have the information. I
 8 believe he's on the appeals, and
 9 that's all based on they refused to
 10 investigate the issues we've been
 11 addressing to take them in a
 12 significant consideration based on my
 13 history.
 14 Q.Anything else that he did?
 15 A.No.
 16 Q.You also named Thomas Hornung.
 17 A.Same thing.
 18 Q.Same thing as Mr. Corbacio?
 19 A.Yes.
 20 Q.Anything else that you want to
 21 add, you also name Brenda
 22 Wildenstein?
 23 A.Same thing.
 24 Q.Anything you need to add as to
 25 Ms. Wildenstein?

1 A.Yes.
 2 Q.You also name a Fryzel,
 3 F-R-Y-Z-E-L?
 4 A.I'm dropping him, too.
 5 Q.Also name Gavin, G-A-V-I-N, as
 6 a Defendant in your case, can you
 7 tell me how he violated your
 8 constitutional rights?
 9 A.He confiscated my mail because
 10 of my race, my beliefs, and in
 11 retaliation for my being a jailhouse
 12 lawyer.
 13 Q.Anything else that Mr. Gavin
 14 did?
 15 A.No.
 16 Q.You also name a Mr. Mahally,
 17 M-A-H-A-L-L-Y, how did he violate
 18 your constitutional rights?
 19 A.That was regarding the
 20 grievances for the property. He
 21 didn't address them. He just denied
 22 me my property because of my history
 23 as a jailhouse lawyer and because of
 24 my race.
 25 Q.Anything else?

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1 A.No.
 2 Q.You name a Mr. Birosak,
 3 B-I-R-O-S-A-K, how did he violate
 4 your constitutional rights?
 5 A.Same thing.
 6 Q.Anything else that you want to
 7 add that Mr. Birosak did?
 8 A.He also did it in retaliation
 9 for my filing a grievance against.
 10 Q.And when was that grievance
 11 filed?
 12 A.I don't recall, like I said, I
 13 don't have access to any of my legal
 14 work.
 15 Q.Was it when you first arrived
 16 at Mahanoy or ---?
 17 A.Yeah, when I first arrived
 18 that's when the exhibits were missing
 19 and I filed a grievance against.
 20 Q.You also name a Defendant by
 21 the name of Peek, P-E-E-K.
 22 A.That's the same thing.
 23 Q.Can you tell me how he
 24 violated your constitutional rights?
 25 A.In refusing me my property or

1 you state a number of legal claims
 2 and I want to go through things
 3 quickly. Well, not quickly but we're
 4 going to review them. You say that
 5 the actions of the Defendants
 6 violated your first amendment rights
 7 guaranteed by the United States
 8 Constitution. And you state first
 9 amendment rights, you were retaliated
 10 against for filing actions,
 11 retaliated against for filing
 12 grievances, for not giving permission
 13 for his psychological records to be
 14 disseminated, denied legal material
 15 for trial, denied pork free
 16 alternative meal, and his Islamic
 17 literature, is there anything else
 18 that you include in your first
 19 amendment claim?
 20 A.Would that include the
 21 Religious Respiration Freedom Act?
 22 Q.That's for you to decide.
 23 A.Well, that includes that, too.
 24 Q.Anything else?
 25 A.Not right now.

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1 he stole my property based on the
 2 fact of my history as a jailhouse
 3 lawyer.
 4 Q.Anything else Mr. Peek did?
 5 A.No.
 6 Q.You also name a Defendant by
 7 the name of MacKreth. ✓
 8 A.I'm dropping him.
 9 Q.You also name a Defendant by
 10 the name of Dropinsky.
 11 A.I'm dropping him, too.
 12 Q.You also name a Defendant by
 13 the name of Jason Grow, can you tell
 14 me how he violated your
 15 constitutional rights?
 16 A.He denied me parole in
 17 retaliation for my filing grievances
 18 and lawsuits.
 19 Q.Anything else that Mr. Grow
 20 did?
 21 A.Well, he also was aware of all
 22 the false information in my files and
 23 never even investigated or even noted
 24 it in the record.
 25 Q.At the end of your complaint,

1 Q.You also state that the
 2 Defendants violated your fourth
 3 amendment rights when you were denied
 4 employment and pay.
 5 A.I'm dropping that.
 6 Q.Denying opportunity to obtain
 7 a favorable parole recommendation,
 8 denied the opportunity to obtain
 9 parole, denied adequate psychological
 10 reports and denied property and
 11 money. Anything else that you wish
 12 to include?
 13 A.Not right now.
 14 Q.You state in paragraph 187
 15 that the Defendants violated your
 16 secure eighth amendment rights
 17 guaranteed under the United States
 18 Constitution when you were denied
 19 accurate psychological records, files
 20 and when your cell lights were kept
 21 on all night, and when you were
 22 denied showers and recreation.
 23 A.The last two will be dropped.
 24 Q>Showers and recreation?
 25 A.Yes.

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1 Q And what about cell lights?

2 A That remains.

3 Q Cell lights are going to

4 remain?

5 A Did I mark that down?

6 Q You have that checked.

7 A Then they'll be dropped.

8 Q Anything else you want to add

9 to your eighth amendment?

10 A No.

11 Q You also allege that your 14th

12 amendment rights were violated when

13 you were denied an opportunity to be

14 heard, had a partial Hearing

15 Examiner, denied opportunity to offer

16 evidence, denied property, denied

17 money, denied employment pay,

18 retaliated against for filing legal

19 actions or prison grievances, and

20 denied his Islamic literature and

21 capriciously and arbitrarily denied

22 and found guilty, and I can't make

23 out what the end of that is. But

24 aside from what you have in paragraph

25 188, do you want to review it, is

1 to that?

2 A Not right now.

3 Q You have in paragraph 190 that

4 the actions of the Defendants

5 violated Plaintiff's secured 14th

6 amendment rights to keep a protection

7 guaranteed under the United States

8 Constitution and he was denied the

9 pork free alternative meals, denied

10 his Islamic literature, and punished

11 for his status as a prisoner; is

12 there anything else you want to add

13 to that?

14 A Not right now.

15 Q Is there anything else that

16 you want to add concerning this

17 complaint?

18 A Well, anything that I add, it

19 will be in the amended complaint.

20 ATTORNEY LEWIS:

21 That's it, thank you.

22

23 * * * * *

24 DEPOSITION CONCLUDED AT 1:15 P.M.

25

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1 there anything else?

2 A The employment pay thing will

3 be dropped, and I don't have anything

4 to add right now.

5 Q Those were your --- paragraph

6 188 deals with due process

7 guarantees. Paragraph 189, you state

8 that Defendants violated and secured

9 your 14th amendments too subsequent

10 to due process guaranteed under the

11 U.S. Constitution. You were punished

12 because of your race, punished

13 because of your belief. You were

14 denied adequate disciplinary

15 proceedings, found guilty with no

16 evidence, denied personal property

17 and money, retaliated against for

18 filing legal actions or prison

19 grievances and denied his Islamic

20 literature and denied an opportunity

21 to make parole and not have

22 inaccurate psychological information

23 in his files.

24 A Correct.

25 Q Anything else you want to add

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\$2 - amon

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Only the Westlaw citation is currently available.

United States Court of Appeals, Third Circuit.

Michael A. WESTON; Deborah Weston, H/W,
Appellants,
v.

COMMONWEALTH of Pennsylvania d/b/a
Department of Corrections; State
Correctional Institution at Graterford; Dolores
Merithew.

No. 99-1608.

Argued Sept. 13, 2000.

May 22, 2001.

Male culinary service officer brought action against Pennsylvania Department of Corrections (PDOC) and female coworker alleging hostile work environment sexual harassment and retaliation in violation of Title VII and the Pennsylvania Human Relations Act (PHRA). The United States District Court, 1998 WL 695352, James M. Kelly, J., dismissed officer's hostile work environment claims for failure to state a claim and subsequently granted summary judgment to PDOC on officer's retaliation claim, and officer appealed. The Court of Appeals, Nygaard, Circuit Judge, held that: (1) PDOC was not liable to officer for failing to prevent sexual harassment by coworker or for its alleged failure to reprimand her; (2) District Court erred in failing to provide officer an opportunity to amend his complaint so as to make allegations as to prison officials' instigation or knowledge of the harassment; (3) allegations in officer's complaint stated a claim for hostile work environment; (4) written reprimands were not adverse employment actions; and (5) one-year period between suspension of officer and his complaints of sexual harassment did not support inference of causation between his complaints and his suspensions.

Affirmed in part, and reversed and remanded in part.

[1] Federal Courts ⇨763.1

170Bk763.1

Court of Appeals exercises plenary review when examining a motion to dismiss for failure to state a claim. Fed.Rules Civ.Proc.Rule 12(b)(6), 28 U.S.C.A.

[2] Federal Courts ⇨794
170Bk794

Court of Appeals examining a motion to dismiss for failure to state a claim accepts the allegations of the complaint as true and draws all reasonable factual inferences in favor of the plaintiff. Fed.Rules Civ.Proc.Rule 12(b)(6), 28 U.S.C.A.

[3] Federal Courts ⇨763.1
170Bk763.1

Court of Appeals affirms a dismissal of a complaint for failure to state a claim only if it appears certain that a plaintiff will be unable to support his claim. Fed.Rules Civ.Proc.Rule 12(b)(6), 28 U.S.C.A.

[4] Civil Rights ⇨145
78k145

In order to be actionable as hostile work environment harassment under Title VII, harassment must be so severe or pervasive that it alters the conditions of the victim's employment and creates an abusive environment. 42 U.S.C.A. § 2000e-2(a)(1); 29 C.F.R. § 1604.11(a)(3).

[5] Civil Rights ⇨145
78k145

In order to fall within the purview of Title VII's prohibition against hostile work environment harassment, conduct in question must be severe and pervasive enough to create an objectively hostile or abusive work environment, such that a reasonable person would find hostile and that the victim-employee subjectively perceives as abusive or hostile. 42 U.S.C.A. § 2000e-2(a)(1).

[6] Civil Rights ⇨145
78k145

In determining whether a work environment is hostile or abusive, for purposes of Title VII hostile work environment claim, Court of Appeals looks at

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numerous factors, including the frequency of the discriminatory conduct, its severity, whether it is physically threatening or humiliating, or a mere offensive utterance, and whether it unreasonably interferes with an employee's work performance. 42 U.S.C.A. § 2000e-2(a)(1).

[7] Civil Rights ☞167
78k167

Under Title VII, employers have an affirmative duty to prevent sexual harassment by supervisors. 42 U.S.C.A. § 2000e-2(a)(1).

[8] Civil Rights ☞167
78k167

To bring a successful claim for a sexually hostile work environment under Title VII, employee must establish that: (1) he or she suffered intentional discrimination because of their sex; (2) discrimination was pervasive and regular; (3) discrimination detrimentally affected the employee; (4) discrimination would detrimentally affect a reasonable person of the same sex in that position; and (5) existence of respondeat superior liability. 42 U.S.C.A. § 2000e-2(a)(1).

[9] Civil Rights ☞145
78k145

When an employer's response to employee's complaints of harassment by coworker stops the harassment, there can be no employer liability for hostile work environment harassment under Title VII. 42 U.S.C.A. § 2000e et seq.

[10] Civil Rights ☞167
78k167

Pennsylvania Department of Corrections (PDOC) was not liable to male culinary service officer under Title VII or Pennsylvania Human Relations Act (PHRA) for failing to prevent sexual harassment by female coworker or for its alleged failure to reprimand her where PDOC had grievance procedure in place, officer knew of grievance procedure and used it, and coworker received written reprimand for violating PDOC's policies against sexual harassment. 42 U.S.C.A. § 2000e et seq.; 43 P.S. § 951 et seq.

[11] Federal Civil Procedure ☞1838
170Ak1838

In Title VII action where male culinary service officer alleged that he was subjected to comments, jokes, and jibes by inmates, and complaint against state department of corrections was dismissed for failure to state a claim, district court erred in failing to provide officer an opportunity to amend his complaint so as to make allegations, if possible, as to prison officials' instigation or knowledge of the events. Fed.Rules Civ.Proc.Rule 15(a), 28 U.S.C.A.

[12] Civil Rights ☞145
78k145

Mere utterance of an epithet, joke, or inappropriate taunt in the workplace that may cause offense does not sufficiently affect the conditions of employment to implicate Title VII liability. 42 U.S.C.A. § 2000e et seq.

[13] Federal Civil Procedure ☞673
170Ak673

Generally, in federal civil cases, a claimant does not have to set out in detail the facts upon which a claim is based, but must merely provide a statement sufficient to put the opposing party on notice of the claim. Fed.Rules Civ.Proc.Rule 8, 28 U.S.C.A.

[14] Civil Rights ☞145
78k145

Allegations in male culinary service officer's complaint, that coworkers, managers, and inmates made offensive comments, jokes, and jibes after officer filed grievance against female coworker who had massaged his back and touched his buttocks in front of inmates stated a claim against Pennsylvania Department of Corrections (PDOC) for hostile work environment under Title VII and the Pennsylvania Human Relations Act (PHRA). 42 U.S.C.A. § 2000e-2(a)(1); 43 P.S. § 951 et seq.; Fed.Rules Civ.Proc.Rule 12(b)(6), 28 U.S.C.A.

[15] Federal Civil Procedure ☞673
170Ak673

Complaints need not plead law or match facts to every element of a legal theory.

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[16] Master and Servant ⚡30(6.10)
255k30(6.10)

To establish a prima facie case of retaliation under Title VII, employee must show that: (1) he or she engaged in a protected employee activity; (2) employer took an adverse employment action after or contemporaneous with the protected activity; and (3) causal link exists between the protected activity and the adverse action. 42 U.S.C.A. § 2000e et seq.

[17] Prisons ⚡7
310k7

Two written reprimands which were placed in male corrections officer's personnel file after he had complained about sexual harassment by female coworker and filed discrimination charges were not adverse employment actions, as required for his prima facie case of retaliation under Title VII; officer was not demoted in title, did not have his work schedule changed, was not reassigned to a different position or location in the prison, did not have his hours or work changed or altered in any way, and was not denied any pay raise or promotion as a result of the reprimands. 42 U.S.C.A. § 2000e et seq.

[18] Prisons ⚡7
310k7

One-year period between suspension of corrections officer without pay for alleged attendance problems and his complaints of sexual harassment by female coworker did not support inference of causation between his complaints and his suspensions, as required for officer's prima facie case of retaliation under Title VII; at least four other employees were dismissed for attendance problems during same time period, and decision to suspend officer was not made by his immediate supervisor to whom he had directed his sexual harassment complaints. 42 U.S.C.A. § 2000e et seq.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA, (D.C. No. 98-cv-03899), District Judge: The Honorable James M. Kelly, U.S. Magistrate Judge: The Honorable Thomas J. Rueter.

Thomas M. Holland, Jeffrey Campolongo, (Argued), Philadelphia, PA, Counsel for Appellants.

Randall J. Henzes, (Argued), Office of Attorney General of Pennsylvania, Philadelphia, PA, Counsel for Appellee.

Before BECKER, Chief Judge, NYGAARD, and AMBRO, Circuit Judges.

OPINION OF THE COURT

NYGAARD, Circuit Judge.

*1 Appellant Michael Weston filed a sexual harassment civil action against his employer, the Pennsylvania Department of Corrections ("PDOC"), and Dolores Merithew, a co-worker. Weston alleged violations of Title VII, the Pennsylvania Human Relations Act ("PHRA"), and Pennsylvania common law. Weston's Title VII claim was premised on a hostile work environment theory. Specifically, Weston asserted that he was subjected to a hostile work environment as a result of the PDOC's failure to discipline Merithew after she had physically touched Weston on two occasions, and as a consequence of the comments, jokes and jibes made by employees and inmates who had learned of the incidents. In addition, Weston alleged that, after he complained to the PDOC about this harassment, the PDOC retaliated against him by reprimanding him and transferring him to a less desirable position.

The District Court dismissed Weston's Title VII claim for "hostile work environment" sexual harassment as well as his state common law claims against the PDOC for failure to state a claim. The District Court granted summary judgment to the PDOC on Weston's retaliation claim. After a bench trial, the District Court entered judgment in favor of Weston and against Merithew on the remaining state law claims. Weston timely appealed. We have jurisdiction pursuant to 28 U.S.C. § 1291.

In this appeal, Weston challenges the District Court's disposition of both his hostile work environment claim and his retaliation claim. With respect to the hostile work environment claim, Weston asserts that it was error for the court to dismiss for failure to state a claim, as his complaint's allegations sufficed to make out a hostile work environment claim, particularly in light of the liberal notice pleading requirements contained in FED. R. CIV. P. 8. We decide that Weston's

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allegations concerning the PDOC's response to the two incidents of physical touching were not adequate to state a Title VII hostile work environment claim, and we affirm the District Court's dismissal of that portion of Weston's complaint. However, we also conclude that Weston's allegations as to a hostile environment created as a result of the comments, jokes, and jibes made by co-workers and managers did meet the federal rules' liberal pleading requirements, and we therefore reverse the District Court's dismissal of that component of Weston's hostile work environment claim, and remand for further discovery and proceedings. Finally, in regard to Weston's averments as to a hostile environment created as a result of verbal harassment on the part of inmates, while we agree with the District Court that those allegations, as they currently stand, do not suffice to state a Title VII claim, we reverse the court's dismissal, and remand with instructions to grant Weston a specified period of time in which to amend (and amplify) that portion of his complaint.

With respect to the retaliation claim, Weston avers that it was error for the court to grant summary judgment, because he succeeded in creating a genuine issue as to the material fact that the PDOC took adverse action against him, in the form of two written reprimands and two suspensions without pay, as a result of his harassment complaints. We conclude that, under the circumstances present in Weston's case, the written reprimands do not constitute adverse employment actions. We further decide that Weston failed to present sufficient evidence to establish the requisite causal connection between the two suspensions and his complaints. Accordingly, we affirm the District Court's summary judgment grant on the retaliation claim.

I.

A. Factual Background

*2 Weston is a corrections officer at the State Correctional Institution at Graterford, Pennsylvania. At the time of this action, he worked in the Food Services Department as a trainer. His duties included supervising inmates who worked in the prison's kitchen. Merithew is also a corrections officer and held a similar position in the prison kitchen. Although testimony indicates that Weston and Merithew did not have an amicable working

relationship, on February 11, 1997, Merithew massaged Weston's back in the presence of inmates. Weston found this physical contact offensive and told Merithew to stop. Merithew laughed in response, but apparently discontinued the activity.

Three days later, Weston tore a visible hole in the seat of his pants. While his back was turned, Merithew placed her finger in the hole, touching his buttocks. As with the previous incident, this act occurred in the presence of inmates. Weston expressed his anger to Merithew and told her to leave him alone.

Weston complained to his supervisor about Merithew's actions, and she was given a written reprimand. Weston claimed that, as a result of Merithew's actions, he was subjected to offensive comments, jibes, and jokes made by co-workers, managers and inmates. According to Weston, the PDOC did not act in response to his complaints. In fact, Weston was reprimanded by the PDOC and transferred to a less desirable position.

B. Procedural Background

Weston sued both the PDOC and Merithew in the District Court. Weston alleged that the PDOC violated Title VII and the PHRA by failing to properly discipline Merithew after Weston's complaints and that Weston was subjected to repeated jokes, jibes, and offensive comments by co-workers, managers and inmates. He also claimed that the PDOC retaliated against him for complaining about Merithew's conduct by reprimanding him and transferring him to a less desirable position.

The PDOC first moved to dismiss Weston's complaint for failure to state a claim upon which relief may be granted. [FN1] See FED. R. CIV. P. 12(b)(6). On September 29, 1998, the District Court granted the motion to dismiss, in part. Specifically, the court determined that Weston's complaint failed to allege facts that showed the PDOC was negligent in disciplining Merithew, and it held that Weston failed to establish the PDOC's liability under respondeat superior. Further, the District Court found that the jokes and offensive comments Weston experienced after the incidents did not constitute a hostile working environment. However, the District Court denied the PDOC's motion to dismiss

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Weston's retaliation claim.

After limited discovery, the PDOC moved for summary judgment on the remaining retaliation claim. Although Weston may have suffered adverse employment actions, the District Court held that he had not shown a causal connection between these actions and his complaints about Merithew's conduct. Even if he had established such a connection, the District Court suggested that the outcome would have been the same because the PDOC offered a nondiscriminatory reason for its actions. [FN2]

II. Motion to Dismiss--The Hostile Work Environment Claims

*3 [1][2][3] We exercise plenary review when examining a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). *Lorenz v. CSX Corp.*, 1 F.3d 1406, 1411 (3d Cir.1993). We accept the allegations of the complaint as true and draw all reasonable factual inferences in favor of the plaintiff. *Id.* We will affirm a dismissal only if it appears certain that a plaintiff will be unable to support his claim. *Wisniewski v. Johns-Manville Corp.*, 759 F.2d 271, 273 (3d Cir.1985). Our review of Weston's complaint reveals two separate bases for hostile work environment sexual harassment--one concerning the conduct and actions of the PDOC and Dolores Merithew and one concerning unidentified "coworkers, managers and inmates." Complaint, P 18.

A. Hostile Work Environment Claims

[4] Title VII of the Civil Rights Act of 1964 and the Pennsylvania Human Relations Act make it unlawful for an employer to "discriminate against any individual with respect to his compensation, terms, conditions or privileges of employment because of such individual's race, color, religion, sex or national origin." 42 U.S.C.S 2000e-2(a)(1). [FN3] Hostile work environment harassment occurs when unwelcome sexual conduct unreasonably interferes with a person's performance or creates an intimidating, hostile, or offensive working environment. *Meritor Savs. Bank FSB v. Vinson*, 477 U.S. 57, 65, 106 S.Ct. 2399, 2404, 91 L.Ed.2d 49 (1986) (quoting 29 C.F.R. S 1604.11(a)(3)). In order to be actionable, the harassment must be so severe or pervasive that it alters the conditions of the

victim's employment and creates an abusive environment. *Id.* at 67, 106 S.Ct. at 2405; see also *Spain v. Gallegos*, 26 F.3d 439, 446-47 (3d Cir.1994).

[5][6] In *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 114 S.Ct. 367, 126 L.Ed.2d 295 (1993), the Supreme Court clarified the elements of a discrimination claim resulting from a hostile work environment. In order to fall within the purview of Title VII, the conduct in question must be severe and pervasive enough to create an "objectively hostile or abusive work environment--an environment that a reasonable person would find hostile--and an environment the victim-employee subjectively perceives as abusive or hostile." *Id.* at 21-22, 114 S.Ct. at 370-71. In determining whether an environment is hostile or abusive, we must look at numerous factors, including "the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; whether it unreasonably interferes with an employee's work performance." *Id.* at 23, 114 S.Ct. at 371. The Supreme Court recently reaffirmed Harris' "severe and pervasive" test in *Faragher v. City of Boca Raton*, 524 U.S. 775, 783, 119 S.Ct. 2275, 2283, 141 L.Ed.2d 662, --- (1998), and *Burlington Indus., Inc. v. Ellerth*, 524 U.S. 724, 732, 118 S.Ct. 2257, 2265, 141 L.Ed.2d 633, --- (1998).

[7][8] After the Supreme Court's Faragher/ Ellerth decisions, employers must do more than merely take corrective action to remedy a hostile work environment situation. Employers also have an affirmative duty to prevent sexual harassment by supervisors. See *Faragher*, 524 U.S. at 793, 118 S.Ct. at 2293; *Williams v. General Motors Corp.*, 187 F.3d 553, 561 (6th Cir.1999). Although the Supreme Court has not addressed hostile work environment claims arising from the actions of a co-worker, we have developed a framework for evaluating such a claim:

*4 Five constituents must converge to bring a successful claim for a sexually hostile work environment under Title VII: (1) the employee suffered intentional discrimination because of their sex, (2) the discrimination was pervasive and regular, (3) the discrimination detrimentally affected the plaintiff, (4) the discrimination would detrimentally affect a reasonable person of the same sex in that position, and (5) the existence of

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respondeat superior liability.

Andrews v. City of Philadelphia, 895 F.2d 1469, 1482 (3d Cir.1990) (footnote and citations omitted); accord Kunin v. Sears Roebuck & Co., 175 F.3d 289, 293 (3d Cir.1999).

B. Hostile Work Environment Harassment and Merithew's Actions

In dismissing his complaint, the District Court determined that Weston could not establish a prima facie hostile work environment claim based on the PDOC's failure to adequately reprimand Merithew. It concluded that the alleged discrimination was not pervasive, regular, or objectively detrimental, and that respondeat superior liability did not apply.

Weston alleged in his complaint that the PDOC was liable for Merithew's harassment because it failed to prevent her from assaulting him and did not adequately discipline her. This argument has no merit. Our rule "envision[s] prompt remedial action when the hostile environment is discovered." Bouton v. BMW of N. America, Inc., 29 F.3d 103, 110 (3d Cir.1994). In other words, when the source of the alleged harassment is a co-worker, a plaintiff must demonstrate that the employer failed to provide a reasonable avenue for complaint, or, if the employer was aware of the alleged harassment, that it failed to take appropriate remedial action. Kunin, 175 F.3d at 293 (citing Andrews, 895 F.2d at 1486 (liability exists where the defendant knew or should have known of the harassment and failed to take prompt remedial action)); see also 29 C.F.R. S 1604.11(d)(1999) (employer is liable for co-worker harassment if it knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action.); Kracunas v. Iona Coll., 119 F.3d 80, 89 (2d Cir.1997).

[9][10] Under our jurisprudence, the PDOC's failure to prevent an act of co-worker harassment, in and of itself, does not end the hostile environment inquiry. After Weston officially complained about Merithew's conduct, she received a written reprimand for violating the PDOC's policies against sexual harassment. Weston does not allege that the offensive conduct continued after the reprimand. We have instructed that "an effective grievance procedure—one that is known to the victim and that timely stops the harassment—shields the employer from Title VII liability for hostile environment."

Bouton, 29 F.3d at 110. Moreover, when an employer's response stops the harassment, there can be no employer liability under Title VII. Kunin, 175 F.3d at 294 ("By definition, there is no negligence if the [sexual harassment grievance] procedure is effective.") (citing Bouton, 29 F.3d at 110). The PDOC's grievance procedure was obviously known to Weston (he filed a complaint) and, by his own admission, it was effective. Liability cannot be imputed to the PDOC for Merithew's conduct or for its alleged failure to adequately reprimand her.

C. Hostile Work Environment and the Comments, Jokes, and Jibes of Co-workers, Managers and Inmates

*5 Weston's complaint averred that the PDOC should be held liable for the comments, jokes, and jibes of inmates. In Slayton v. Ohio Dept. of Youth Serv., 206 F.3d 669 (6th Cir.2000), the Court of Appeals for the Sixth Circuit determined that, without more, objectionable conduct by prison inmates cannot, in and of itself, be a sufficient predicate for a hostile work environment claim. *Id.* We agree that "prisoners, by definition, have breached prevailing societal norms in fundamentally corrosive ways. By choosing to work in a prison, corrections personnel have acknowledged and accepted the probability that they will face inappropriate and socially deviant behavior." *Id.* (citations omitted).

However, this is not an absolute rule. Prison liability for inmate conduct may indeed apply when, for example, the institution fails to take appropriate steps to remedy or prevent illegal inmate behavior. See *id.*; Waymire v. Harris County, Tex., 86 F.3d 424, 428-29 (5th Cir.1996) (holding that because prison took prompt remedial action, jailer did not establish a hostile environment where a fellow jailer circulated sexually offensive inmate drawing). Moreover, we can find no authority which suggests that there is an absolute bar to Title VII liability when prison personnel encourage or instigate illegal inmate behavior.

[11] Weston's complaint indicates that he was subjected to comments, jokes, and jibes by unspecified inmates. Complaint at P 18. Absent further amplification—for instance that prison officials encouraged the inmate's comments, or that prison officials knew of the harassing conduct but

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failed to remedy it--this mere allegation is insufficient to state a Title VII claim. However, Weston should have an opportunity to amend his complaint so as to make allegations, if possible, as to prison officials' instigation and/or knowledge of these events. We believe the District Court erred in not providing Weston an opportunity to amend his complaint in this fashion. See FED. R. CIV. P. 15(a); *Shane v. Fauver*, 213 F.3d 113 (3d Cir.2000); *Borelli v. City of Reading*, 532 F.2d 950 (3d Cir.1976). We reverse the District Court and remand with instructions to grant Weston a specified period of time in which to amend the complaint.

Weston's second basis for employer liability is more complex. In his complaint, Weston alleges that he was subjected to "sexually offensive comments, jokes and jibes by fellow PDOC employees, managers and inmates." Complaint at P 18. On appeal, he has argued that the PDOC is liable for the jokes of its managers and Weston's co-workers because of the PDOC's negligent response to these comments. His central argument is that the jokes, jibes, and comments continued unabated, thereby creating a hostile work environment.

[12] While the Supreme Court has stated that Title VII grants employees "the right to work in an environment free from discriminatory intimidation, ridicule and insult," *Meritor Savs. Bank*, 477 U.S. at 65, 106 S.Ct. at 2405, it has likewise emphasized that not all workplace conduct that has sexual overtones can be characterized as forbidden harassment. See *id.* at 67, 106 S.Ct. at 2405-06. The alleged harassment must affect a "term, condition or privilege" of employment in order to fall within Title VII's purview. *Id.* Moreover, the Supreme Court has instructed that a plaintiff must allege that the conduct at issue was not merely tinged with offensive sexual connotations, but actually constituted gender discrimination. See *Oncale v. Sundowner Offshore Servs. Inc.*, 523 U.S. 75, 79, 118 S.Ct. 998, 1002, 140 L.Ed.2d 201 (1998). The mere utterance of an epithet, joke, or inappropriate taunt that may cause offense does not sufficiently affect the conditions of employment to implicate Title VII liability. See *Schwapp v. Town of Avon*, 118 F.3d 106, 110 (2d Cir.1997).

*6 Weston's complaint includes little detail about the content of the offensive comments, jokes, and jibes. Instead, it merely claims that they were the

result of Merithew's actions, and were made in retaliation for his filing of a grievance against her. See Complaint at P 18. By his own admission, the comments, jokes, and jibes were not directed at his gender. In fact, Weston's complaint fails to allege that he was targeted because of his gender. See *Oncale*, 523 U.S. at 79, 118 S.Ct. at 1002. Furthermore, the complaint makes no allegation that the conduct altered the conditions of Weston's employment or created an abusive environment in which he had to work. See *Meritor Savs. Bank*, 477 U.S. at 67, 106 S.Ct. at 2505-06 (quoting *Henson v. City of Dundee*, 682 F.2d 897, 9040 (11th Cir.1982)).

[13] However, at oral argument, Weston's counsel argued that his allegations were sufficient to survive a motion to dismiss based on our liberal notice pleading requirements. See FED. R. CIV. P. 8. Generally, in federal civil cases, a claimant does not have to set out in detail the facts upon which a claim is based, but must merely provide a statement sufficient to put the opposing party on notice of the claim. FED. R. CIV. P. 8; *Remick v. Manfredy*, 238 F.3d 248, 264 (3d Cir.2001); *Foult v. Donjon Marine Co.*, 144 F.3d 252 (3d Cir.1998). In *Conley v. Gibson*, 355 U.S. 41, 47-48, 78 S.Ct. 99, 103, 2 L.Ed.2d 80 (1957), the Supreme Court set out the proper role of pleadings:

The Federal Rules of Civil Procedure do not require a claimant to set out in detail the facts upon which he bases his claim. To the contrary, all the Rules require is a short and plain statement of the claim that will give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests. Such simplified "notice pleading" is made possible by the liberal opportunity for discovery and the other pretrial procedures established by the Rules to disclose more precisely the basis of both claim and defense and to define more narrowly the disputed facts and issues.

The Federal Rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits.

Id. (citations omitted); see also *Universe Tankships, Inc. v. United States*, 528 F.2d 73, 75 (3d Cir.1975) (notice pleading requires a party only to "disclose adequate information as the basis of his claim for relief."); *Quinones v. United States*, 492 F.2d 1269, 1273 (3d Cir.1974) ("[A] complaint

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should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief").

[14][15] Dismissal under FED. R. CIV. P. 12(b)(6) is inappropriate because Weston's complaint states a claim for hostile work environment and therefore provides adequate notice to the defense. Although Weston's allegations are not strong, they are nonetheless sufficient to meet our lenient standards of notice pleading. See, e.g., *Brokaw v. Mercer County*, 235 F.3d 1000, 1014 (7th Cir.2000). Complaints "need not plead law or match facts to every element of a legal theory." *Krieger v. Fadely*, 211 F.3d 134, 136 (D.C.Cir.2000) (quoting *Bennett v. Schmidt*, 153 F.3d 516, 518 (7th Cir.1998)); see also *Powell v. Ridge*, 189 F.3d 387, 394 (3d Cir.1999); *Caribbean Broad. Sys., Ltd. v. Cable & Wireless P.L.C.*, 148 F.3d 1080, 1086 (D.C.Cir.1998) ("[A] plaintiff need not allege all the facts necessary to prove its claim."); *Atchinson v. District of Columbia*, 73 F.3d 418, 421-22 (D.C.Cir.1996) ("A complaint ... need not allege all that a plaintiff must eventually prove ..."); *Gooding v. Warner-Lambert Co.*, 744 F.2d 354, 357-59 (3d Cir.1984) (eschewing "highly technical pleading rules, which only serve to trap the unwary practitioner," in favor of notice pleading;) accord *Sinclair v. Kleindienst*, 711 F.2d 291, 293 (D.C.Cir.1983) ("The Federal Rules of Civil Procedure do not require a claimant to set out the precise facts on which the claim is based.... 'Notice pleading' is sufficient."); *Williams v. Washington Metro. Area Transit Auth.*, 721 F.2d 1412, 1418 n. 12 (D.C.Cir.1983); *Fouche v. Jekyll Island-State Park Auth.*, 713 F.2d 1518, 1525 (11th Cir.1983).

*7 Discrimination and other civil rights claims are clearly subject to notice pleading. *Conley* involved a class action by African-American railroad clerks who alleged that their union had breached its duty of fair representation and discriminated against them in violation of the Railway Labor Act, 45 U.S.C. § 151. In reversing the Rule 12(b)(6) dismissal of the complaint, the Supreme Court rejected defendant's argument that dismissal was proper because "the complaint failed to set forth specific facts to support its general allegations of discrimination." *Conley*, 355 U.S. at 47, 78 S.Ct. at 99. Thirty-five years later, in *Leatherman v. Tarrant County*, the Court reaffirmed *Conley* and rejected the suggestion that a

" 'heightened pleading standard'--more stringent than the usual pleading requirements of Rule 8(a)--" should apply in civil rights cases. 507 U.S. at 164, 167-68, 113 S.Ct. at 1160-62.

Therefore, although we question the merits of Weston's claim for hostile work environment due to the comments, jokes, and jibes of his co-workers and managers, he has satisfied the extremely lenient requirement of notice pleading. We will reverse the District Court and remand that portion of the case with instructions to permit further discovery.

We note that, at this stage of the litigation, Weston does not present the most compelling of Title VII hostile work environment claims. Were this an appeal from a grant of summary judgment, we would be hard-pressed to reverse a disposition in PDOC's favor. However, this is an appeal from a 12(b)(6) dismissal and, although we consider the question to be an extremely close one, we conclude that Weston's allegations of a hostile work environment created by the remarks of co-workers and managers suffices to state a Title VII claim.

III. Summary Judgment--The Retaliation Claim

[16] To establish a prima facie case of retaliation, a plaintiff must show that: (1) he or she engaged in a protected employee activity; (2) the employer took an adverse employment action after or contemporaneous with the protected activity; and (3) a causal link exists between the protected activity and the adverse action. See *Farrell v. Planters Lifesavers Co.*, 206 F.3d 271, 297 (3d Cir.2000); see also, e.g., *Kachmar v. Sungard Data Sys., Inc.*, 109 F.3d 173, 177 (3d Cir.1997); *Krouse v. American Sterilized Co.*, 126 F.3d 494, 500 (3d Cir.1997) (describing the third requirement as a "causal connection"); *Jalil v. Avdel Corp.*, 873 F.2d 701, 708 (3d Cir.1989).

It is undisputed that Weston's sexual harassment complaint to his supervisor on February 15, 1997, and his similar inquiries on February 26, March 26, and April 25 were protected activities. See *DiIenno v. Goodwill Indus. of Mid- Eastern Pennsylvania*, 162 F.3d 235, 236 (3d Cir.1998). Moreover, his filing of a complaint with the Equal Opportunity Employment Commission on July 16, 1997, was also protected. See *Robinson v. City of Pittsburgh*, 120 F.3d 1286, 1300 (3d Cir.1997).

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*8 The District Court identified four adverse employment actions, the second element of a prima facie case. First, Weston suffered two suspensions without pay in June and August of 1998. It is not disputed that these suspensions were adverse employment actions. However, the parties disagree on whether the written reprimands on March 3, 1997, and May 15, 1997, can be similarly characterized. We have specifically found oral reprimands not sufficiently adverse to qualify under the statute. See Robinson, 120 F.3d at 1301 (holding that unsubstantiated oral reprimands and unnecessary derogatory comments were not adverse employment actions in a retaliatory conduct case). The District Court, however, found Weston's written reprimands distinguishable from oral reprimands and therefore held that they were adverse employment actions. In the circumstances of this case, we disagree.

A. The Written Reprimands

Title VII specifically prohibits action which would "deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee." 42 U.S.C. § 2000e-2(a). The Supreme Court has defined a tangible, adverse employment action as a "significant change in employment status, such as hiring, firing, failing to promote, reassignment, or a decision causing a significant change in benefits." *Burlington Indus. Inc. v. Ellerth*, 524 U.S. 742, 749, 118 S.Ct. 2257, 2268, 141 L.Ed.2d 633 (1998). In the context of this case, Weston must show, among other things, that these written reprimands affected the terms or conditions of his employment.

The District Court believed that Weston satisfied this burden because the reprimands in question were written instead of oral. Additionally, the District Court stressed that the reprimands were placed in Weston's personnel file for a period of six months. [FN4] The District Court found that these reprimands rose to a level serious enough to trigger employer liability because of their "presumed" effect on compensation, terms, conditions or privileges of Weston's employment.

[17] We conclude, however, that Weston failed to establish how these two reprimands effect a material change in the terms or conditions of his employment. We cannot, therefore, characterize them as adverse employment actions. Weston's own

deposition testimony indicates that he was not demoted in title, did not have his work schedule changed, was not reassigned to a different position or location in the prison, did not have his hours or work changed or altered in any way, and that he was not denied any pay raise or promotion as a result of these reprimands. Additionally, the reprimands were of a temporary nature. Because they were not permanently affixed to Weston's employment file, we cannot see how they changed or altered his employment status in any way. Moreover, Weston suffered no reduction in pay, reassignment, firing, or any similar employment action. Hence, we focus on whether there was a causal connection between Weston's protected activity and the two suspensions without pay that he received on June 12, 1998 and July 31, 1998. We note that the burden of establishing such a connection falls upon Weston. See *Farrell*, 206 F.3d at 279.

B. Causation

*9 On appeal, Weston presents several arguments that there was sufficient evidence to establish a causal connection between the filing of his complaints and his two suspensions. Initially, he argues that the timing of these events suggests a connection between his complaints and the adverse employment actions taken against him. With one exception, we have never held that timing alone can be sufficient to establish causation. [FN5] We conclude that the timing in this case is not unusual enough to become a causal link. [FN6]

[18] The one-day and three-day suspensions, which Weston received in the summer of 1998, were more than a year distant from his protected activities. Absent other evidence, we cannot infer causation. See *Krouse*, 126 F.3d at 504 (a nineteen month interlude between the protected activity and the alleged retaliation, without any other evidence of discriminatory animus in the interim, was insufficient as a matter of law to support an inference of causation).

Next, Weston argues that the District Court erred by not considering a "pattern of antagonism," which he believes was evident throughout the entire course of events. Weston relies on our opinion in *Kachmar*, where we held it was improper for the District Court not to consider evidence establishing such a pattern. 109 F.3d at 177. *Kachmar* is not

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relevant to Weston's claims. In *Kachmar*, retaliatory termination occurred one year after the protected action. See *id.* at 177. Throughout the intervening year however, there were numerous circumstances that suggested termination might occur, including statements that the plaintiff was off the management track and that she should start looking for another job. See *id.* at 178. We concluded that the cumulative effect revealed a pattern of antagonism, which overcame any doubts raised by the temporal separation of events. Thus, we held that causation had been established. Unlike *Kachmar*, the alleged pattern of antagonism in this case did not portend any future retaliation. Instead, the adverse employment actions were discrete responses to particular occurrences. Whereas a pattern of antagonism was clear on the facts in *Kachmar*, there is no evidence in this case that the PDOC's actions were related.

Weston also argues that a causal connection can be established by the inconsistent explanations the PDOC provided for its reprimands. Inconsistent explanations can be an alternative method for establishing a causal link between a protected activity and adverse employment actions. See *Waddell v. Small Tube Prods., Inc.*, 799 F.2d 73, 77 (3d Cir.1986). Weston contends that the PDOC gave inconsistent accounts of whether other kitchen employees had attendance records similar to Weston's. His argument is unclear. Assuming *arguendo* that an inconsistency exists, it still does not establish a causal connection because Weston's two adverse employment actions were unrelated to his attendance record.

Weston argues that the District Court erred by not considering whether the PDOC's proffered explanations for the adverse employment actions were a pretext for retaliation. Typically, pretext evidence is considered after a *prima facie* case is established and the defendant has produced non-discriminatory or non-retaliatory explanations for that behavior. See *Delli Santi v. CNA Ins. Co.* 88 F.3d 192, 199 (3d Cir.1996) (noting that the familiar *McDonnell-Douglas* burden shifting dichotomy applies to retaliation claims).

*10 Weston is correct that pretext evidence can be relevant to causation. See *Farrell*, 206 F.3d at 287. As such, he argues that his two 1998 suspensions--justified by the PDOC as discipline for attendance

problems--were imposed in retaliation for his sexual harassment complaint. The PDOC's explanations, the argument continues, were pretextual. Such pretext, he maintains, evidences the PDOC's motivation, which is directly relevant to causation. In support of this position, he claims that other similarly situated officers were not disciplined.

Weston's argument that the "attendance" justifications for his suspensions were pretextual fails. First, Weston does not dispute that his poor attendance was a valid reason for the discipline he received. He merely argues that he was treated unfairly--that he was punished while other culinary service officers with the same attendance problems were not. However, as the District Court noted, there were at least four employees dismissed for attendance problems during the same period of time. In addition, the decisions to suspend Weston were not made by his immediate supervisor to whom he directed his sexual harassment complaints. Although Weston's supervisor did play a role in the suspensions, the suspensions were ultimately decided upon by a panel of three hearing officers. [FN7] Thus, retaliatory animus, whether for purposes of establishing causation or pretext, cannot be ascribed to the hearing officers who made the suspension determination. See *Jones v. School Dist. of Philadelphia*, 198 F.3d 403, 415 (3d Cir.1999) (affirming a grant of summary judgment in a retaliation claim on the basis that the responsible persons had no information about the underlying protected discrimination claim).

Weston simply cannot create a genuine issue of material fact that his suspensions were imposed in retaliation for his sexual harassment claims. He cannot establish causation or pretext.

IV. Conclusion

In summation, we will reverse that portion of the District Court's dismissal of Weston's complaint as to the allegations that the comments, jokes, and jibes of his co-workers and managers created a hostile work environment for which the PDOC would be liable, and we remand the cause for further discovery and proceedings. With regard to that portion of Weston's complaint containing allegations that comments, jokes, and jibes of inmates created a hostile work environment, we reverse the District Court and remand with instructions to grant Weston

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a specified period of time in which to amend the complaint. We affirm the District Court's Fed.R.Civ.P. 12(b)(6) dismissal of Weston's complaint against the PDOC in all other respects.

We likewise affirm the District Court's grant of summary judgment in favor of the PDOC on Weston's retaliation claims.

FN1. In his response to the PDOC's motion to dismiss, Weston conceded that his state law claims for assault, battery, intentional infliction of emotional distress, and negligent infliction of emotion distress were barred by sovereign immunity. Weston also abandoned his charge that his transfer to a less desirable position was a retaliatory action by the PDOC.

FN2. Weston also sued Merithew individually. The District Court held a bench trial on June 1, 1999, and found that Merithew had committed a battery under state law. On June 3, 1999, the District Court entered judgment in favor of Weston and against Merithew and awarded compensatory damages in the amount of \$1250.00.

FN3. The proper analysis under Title VII and the Pennsylvania Human Relations Act is identical, as Pennsylvania courts have construed the protections of the two acts interchangeably. See, e.g., *Smith v. Pathmark Stores, Inc.*, No. 97-1561, 1998 WL 309916, at *3 (E.D.Pa. June 11, 1998) (interpreting the two statutes concurrently in a sexual harassment case); *Clark v. Commonwealth of Pennsylvania*, 885 F.Supp. 694, 714 (E.D.Pa.1995) (same in racial

discrimination cases).

FN4. At oral argument, counsel for the PDOC confirmed this practice and additionally noted that although a written reprimand may remain in a correction officer's employment file longer than six months, a collective bargaining agreement prohibits the PDOC from using or making reference to any such reprimand older than six months.

FN5. In *Jalil v. Avdel Corp.*, 873 F.2d 701, 708 (3d Cir.1989), we found that an employee's dismissal two days after the company learned of his EEOC complaint was sufficiently persuasive evidence to satisfy the causation element of a prima facie case. Our holding in *Jalil*, however, is limited to the unusually suggestive facts of that case, which are not present in this appeal.

FN6. We need not consider Weston's EEOC complaint. He does not argue that the PDOC was aware of this filing. See *Jones v. School Dist. of Philadelphia*, 198 F.3d 403, 415 (3d Cir.1999) (requiring that the party responsible for the adverse conduct be aware of the protected activity before causation can be inferred).

FN7. Neither party addresses whether those hearing officers were aware of Weston's sexual harassment complaints. However, the PDOC does represent that the hearing officers were unaware of Weston's EEOC filing.

END OF DOCUMENT

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES ISELEY,

Plaintiff

v.

W. CONWAY BUSHEY, et al.,

Defendants


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**No. 1:00-CV-00577
(Judge Kane)**

CERTIFICATE OF SERVICE

I, Maryanne M. Lewis, Deputy Attorney General, hereby certify that on this date I caused to be served the foregoing Documents in Support of Defendants' Motion for Summary Judgment, by depositing a copy of the same in the United States mail, postage prepaid, in Harrisburg, PA., addressed to the following:

Charles Iseley, #AM-9320
SCI-Huntingdon
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Huntingdon, PA 16654


MARYANNE M. LEWIS
DEPUTY ATTORNEY GENERAL

DATE: June 15, 2001

